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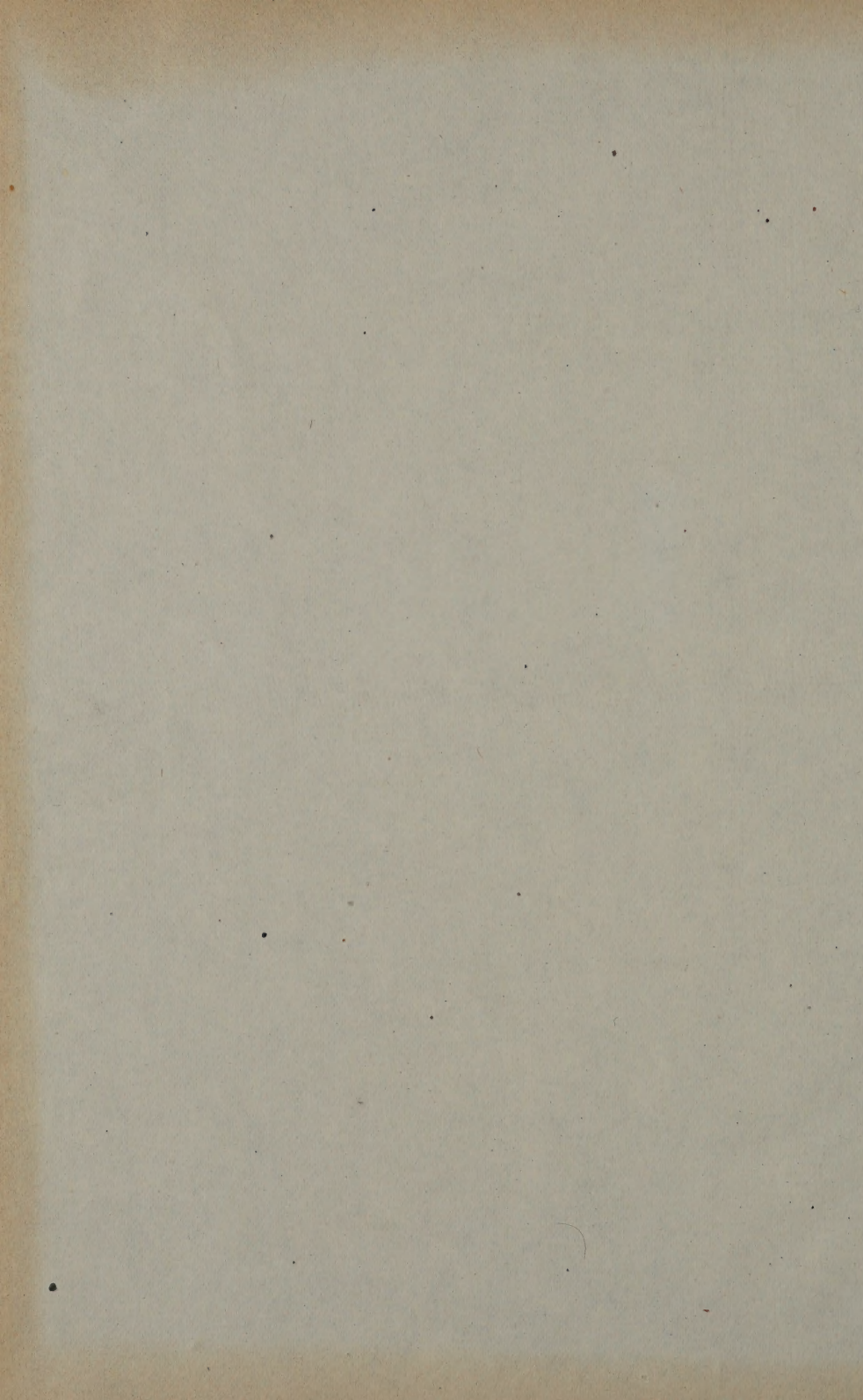
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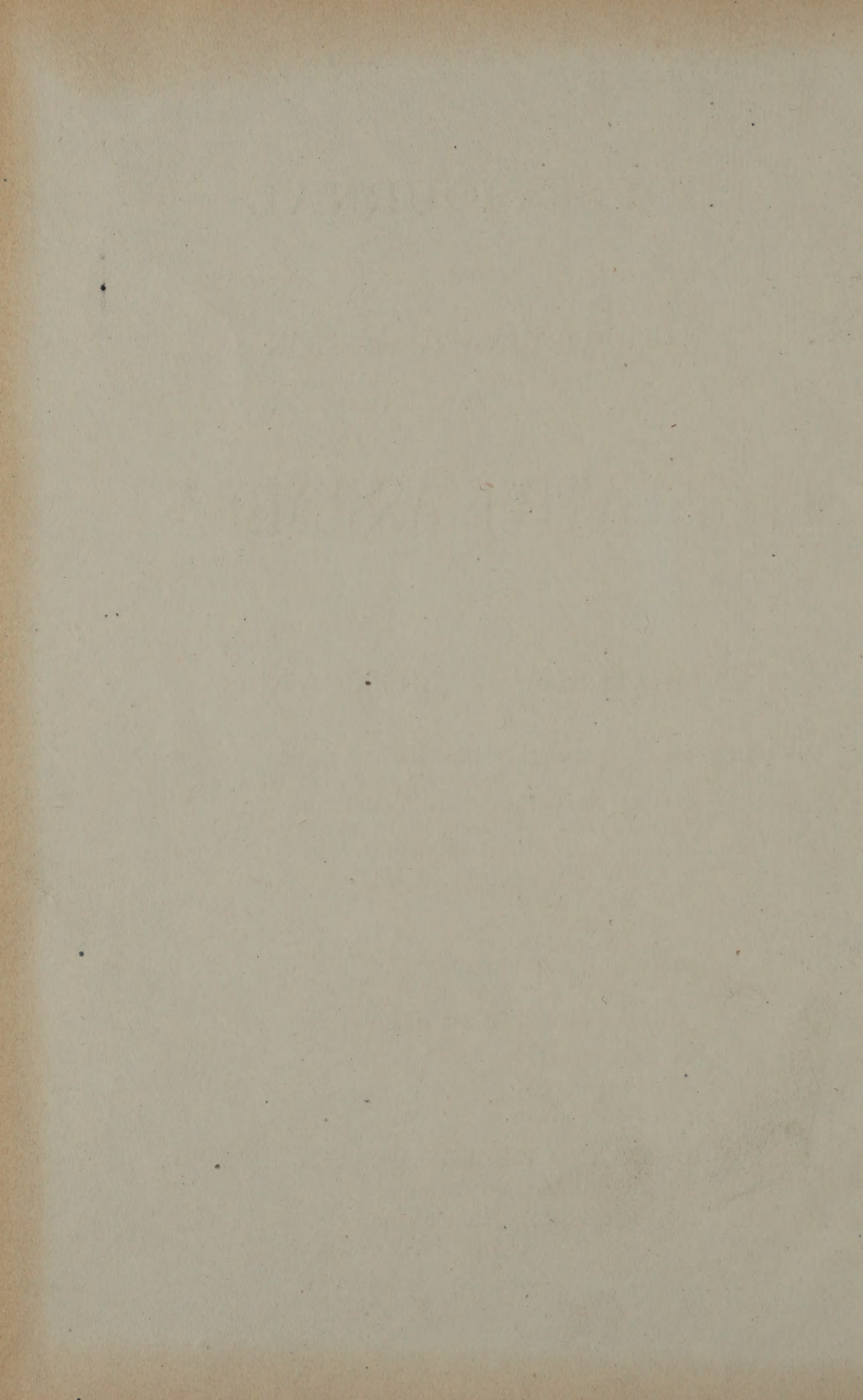
8th

Extra











# HOUSE JOURNAL

OF THE

EXTRAORDINARY SESSION

OF THE

# LEGISLATIVE ASSEMBLY

OF THE

TERRITORY OF MONTANA,

CONVENED BY PROCLAMATION OF THE GOVERNOR OF SAID  
TERRITORY, BEGUN AND HELD AT THE CITY OF VIR-  
GINIA, THE CAPITAL OF SAID TERRITORY, ON  
MONDAY, THE FOURTEENTH DAY OF  
APRIL, A. D. 1873, AND ENDING ON  
THE EIGHTH DAY OF MAY,  
A. D. 1873.

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PUBLISHED BY AUTHORITY.

DAILY AND WEEKLY HERALD,  
HELENA, MONTANA.

R. E. FISK, PUBLIC PRINTER.

1873.

HOUSE JOURNAL

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DAY, EGBERT, & FIDLAR,  
MANUFACTURERS,  
DAVENPORT, IOWA.

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## MEMBERS OF THE HOUSE OF REPRESENTATIVES,

APRIL 14, 1873.

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JOHN H. ROGERS, *Speaker*.

JAMES M. ALGER.

E. D. AIKEN.

JOSEPH A. BROWN.

ALEX. CARMICHAEL.

W. A. CHESSMAN.

GEO. S. COLEMAN.

OTHO CURTIS.

ISAAC DEAN.

A. DUSOLD.

BENJ. EZEKIEL.

R. K. EMERSON.

JOSEPH W. HARTWELL.

CURT. L. HARRINGTON.

F. GEO. HELDT.

JAMES KENNEDY

J. C. KERLEY.

SAMUEL MALLORY.

CHRISTIAN MEAD.

GEO. W. McCAULEY.

C. C. O'KEEFE.

ISAAC S. STAFFORD.

WILBUR F. SANDERS.

C. W. SUTTON.

CAREY M. TATE.

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## ATTACHEES.

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W. W. CHAPMAN, *Chief Clerk*.  
(none elected) *Assist.* “

E. H. HURLEY, *Enrolling* “

L. HAWKINS, *Engrossing* “

W. T. SHIRLEY, *Sergt.-at-Arms*.

L. B. BELL, *Doorkeeper*.

L. CARR, *Watchman*.

RICH. WATSON, *Messenger*.

## FEDERAL OFFICERS.

## GOVERNOR.

BENJ. F. POTTS, - - - - - VIRGINIA CITY.

SECRETARY.

JAMES E. CALLAWAY, - - - VIRGINIA CITY.

## JUDICIARY.

1st District—F. G. SERVICE, *Associate Justice*, VIRGINIA CITY.

2d District—HIRAM KNOWLES, " " DEER LODGE.

3d District—D. S. WADE, *Chief Justice*, - - - HELENA.

## UNITED STATES DISTRICT ATTORNEY.

M. C. PAGE, - - - - - RADERSBURG.

## COLLECTOR OF CUSTOMS.

T. A. CUMMINGS, - - - - - HELENA.

SURVEYOR GENERAL.

JOHN E. BLAINE, - - - - - HELENA.

## COLLECTOR OF INTERNAL REVENUE.

T. P. FULLER, - - - - - HELENA.

## REGISTER OF LAND OFFICE.

W. C. CHILD, - - - - - HELENA.

## RECEIVER OF PUBLIC MONEYS.

SOL. STAR,       -       -       -       -       -       -       -       -       HELENA.

## TERRITORIAL OFFICERS.

AUDITOR.

W. H. RODGERS, - - - - - VIRGINIA CITY.

TREASURER.

R. O. HICKMAN, - - - - - VIRGINIA CITY.

SUPERINTENDENT OF PUBLIC INSTRUCTION.

CORNELIUS HEDGES, - - - - - HELENA.



# HOUSE JOURNAL.

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EIGHTH LEGISLATIVE ASSEMBLY

OF THE

# TERRITORY OF MONTANA.

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## Extraordinary Session.

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FIRST DAY.

APRIL 14, 1873.

In pursuance of a proclamation by the Governor, the House of Representatives of the Eighth Legislative Assembly of the Territory of Montana—extra session—was called to order in Virginia City, at the hall of the House of Representatives, by Hon. J. E. Callaway, Secretary of the Territory, who, after reading the proclamation of the Governor and list of members entitled to seats in this House, declared the House of Representatives duly convened and ready to go into organization.

On motion of Mr. Brown, of Beaverhead county, Mr. Benj. Ezekiel, of Madison, was unanimously elected Speaker *pro tem*.

On motion of Mr. Kerley, of Deer Lodge, Mr. W. W. Chapman, of Madison, was unanimously elected Chief Clerk of the House *pro tem*.

Mr. W. T. Shirley was elected Sergeant-at-Arms of the House *pro tem*.

Mr. L. B. Bell was elected Doorkeeper of the House *pro tem*.

Mr. Kerley, of Deer Lodge, moved that a committee of three be appointed on credentials. Carried.

The Chair appointed as such committee Messrs. Kerley, of Deer Lodge, Sanders, of Lewis and Clark, and Brown, of Beaverhead.

Mr. Sanders, of Lewis and Clark, moved to adjourn to one o'clock, P. M. Motion was amended by inserting two o'clock, P. M. Amendment carried.

House took recess to 2 o'clock, P. M.

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2 o'clock P. M.—House resumed. Mr. Speaker *pro tem* in the chair.

Roll called—quorum present.

Mr. Kerley, from the Committee on Credentials, reported as follows :

*To the Speaker pro tem. of the House of Representatives of the Legislative Assembly of the Territory of Montana :*

Your Committee on Credentials beg leave respectfully to report that the following members of the House of Representatives have presented their credentials in proper form, and under the proper hands and seals, and that they are the duly elected members of this House, and entitled to seats therein as follows, to-wit :

*First Representative District.*—Benj. Ezekiel, Isaac S. Stafford, Samuel Mallory, Alex. Carmichael.



*Second Representative District.*—Edward D. Aiken, John C. Kerley, Joseph M. Alger, Isaac Dean, John H. Rogers.

*Third Representative District.*—Andrew Dusold, William A. Chessman, Joseph W. Hartwell, F. George Heldt, Wibur F. Sanders.

*Fourth Representative District.*—Christian Mead, Joseph A. Brown.

*Fifth Representative District.*—James Kennedy, C. C. O'Keefe.

*Sixth Representative District.*—Charles A. Delany.

*Seventh Representative District.*—Charles W. Sutton, Curt. L. Harrington.

*Eighth Representative District.*—Otho Curtis, Geo. W. McCauley, Rufus K. Emerson.

*Ninth Representative District.*—Carey M. Tate, Geo. S. Coleman.

All of which is respectfully submitted.

J. C. KERLEY,  
W. F. SANDERS,  
JOSEPH A. BROWN,  
*Committee.*

On motion of Mr. Harrington, the report of the committee was received and adopted, and the committee discharged.

Mr. Rogers moved that a committee of three be appointed to wait on the proper officer and inform him that the House members were ready to be sworn in according to law.

Carried.

The Chair appointed as such committee, Messrs. Rogers, Coleman and Brown, who waited on Secretary Callaway and

escorted him to the Speaker's chair. The Clerk called the roll and the members were sworn in according to law.

On motion of Mr. Hartwell, the House went into permanent organization by the election of permanent Speaker.

The election of Speaker being in order, the following were placed in nomination: John H. Rogers, of Deer Lodge, and Samuel Mallory, of Madison.

Mr. Sanders moved that the election of Speaker be *viva voce*.

Carried.

The Clerk called the roll, with the following result: John H. Rogers received sixteen votes; Samuel Mallory received eight votes.

Mr. Rogers having received a majority of all the votes cast, was declared elected Permanent Speaker of this House, by the Chair.

On motion of Mr. Aiken, of Deer Lodge, the Speaker *pro tem*. appointed a committee of three, consisting of Messrs. Aiken, Dusold and Coleman, to wait on the newly elected Speaker and conduct him to the chair.

Mr. Hartwell, of Lewis and Clark, offered the following resolution, which was adopted:

*Resolved*, That we proceed to the election, by ballot, of the following officers of the House, to-wit: One Chief Clerk, one Enrolling Clerk, one Engrossing Clerk, one Sergeant-at-Arms, one Doorkeeper, one Messenger, one Watchman.

Mr. Ezekiel offered the following amendment to the resolution:

*Resolved*, That we postpone the election of Chief Clerk and Assistant Clerk to 10 o'clock A. M. to-morrow.

The ayes and naves being called on this amendment, resulted in seven for and sixteen against the amendment.

Lost.

The question on the original resolution being called, was carried.

The election of Chief Clerk being in order, the following were placed in nomination :

Mr. Harrington, of Meagher, nominated Mr. W. W. Chapman, of Madison.

Mr. Sanders, of Lewis and Clark, nominated Mr. Alex. H. Beattie, of Lewis and Clark.

Mr. Ezekiel, of Madison, nominated Mr. Rufus E. Arrick, of Lewis and Clark.

On motion of Mr. Coleman, of Gallatin, the Chair appointed Messrs. Ezekiel, of Madison, and Alger, of Deer Lodge, tellers.

The roll being called, resulted as follows : W. W. Chapman received twelve votes, Mr. Alex. H. Beattie received seven, Mr. Rufus E. Arrick received six.

There being no choice, the roll was called again, resulting as follows : W. W. Chapman received thirteen votes, A. H. Beattie received eight votes, R. E. Arrick received four votes.

W. W. Chapman having received a majority of all the votes cast, was declared, by the Chair, duly elected Chief Clerk of the House.

Mr. Heldt, of Lewis and Clark, offered the following resolution :

*Resolved*, That, until further orders of the House, the name of Charles A. Delany be omitted from roll call by the clerk.

Adopted.



The election of Enrolling Clerk being in order, Mr. Ezekiel, of Madison, nominated Mr. E. H. Hurley, of Madison, and there being no other nominations, Mr. Hurley was declared elected Enrolling Clerk of this House by acclamation.

**T**he election of Engrossing Clerk being in order, Mr. Kennedy nominated Lewis Hawkins, of Missoula.

Mr. Sanders, of Lewis and Clark, nominated A. H. Beattie, of Lewis and Clark.

The roll being called, resulted in L. Hawkins receiving seventeen votes, A. H. Beattie receiving eight votes.

Mr. Hawkins having received a majority of all the votes cast, was declared, by the Chair, duly elected Engrossing Clerk of this House.

The election of Sergeant-at-Arms being next in order, Mr. Ezekiel nominated W. T. Shirley, and Mr. Edmonds was placed in nomination.

The roll being called, resulted in W. T. Shirley receiving seventeen votes, Stephen Edmonds receiving eight votes.

Mr. Shirley having received a majority of all the votes cast, was declared, by the Chair, duly elected Sergeant-at-Arms of this House.

The election of Doorkeeper being next in order, Mr. Kerley nominated Mr. L. B. Bell, and Mr. Stephen Edmonds was nominated.

The roll being called, resulted in L. B. Bell receiving seventeen votes, Stephen Edmonds receiving eight votes.

Mr. Bell having received a majority of all the votes cast, was declared, by the Chair, duly elected Doorkeeper of this House.

The election of Messenger being next in order, the following Pages were placed in nomination: Richard Watson, Willie Clark, Thomas Thexton, Van Orten.

Mr. Ezekiel offered the following resolution :

*Resolved*, That instead of electing one Messenger the House elect two Pages.

Ruled out of order.

Moved, by Mr. Ezekiel, that the election of Messenger be postponed until to-morrow morning.

Carried.

The election of Watchman being next in order, Mr. Lewis P. Carr was nominated, and there being no other nominations, was declared elected Watchman of this House by acclamation.

Message from the Council ordered read by the Clerk.

COUNCIL CHAMBER, }  
VIRGINIA CITY, M. T., April 14th, 1873. }

MR. SPEAKER :— I am instructed, by the Council, to inform your honorable body that the Council is now organized for Legislative purposes, and ready to proceed to business with the following officers, to-wit :

*President*—Hon. G. W. Stapleton.

*Chief Clerk*—A. M. S. Carpenter.

*Assistant Clerk*—R. W. Hill.

*Engrossing Clerk*—A. J. Davidson.

*Enrolling Clerk*—W. G. Barkley.

*Sergeant-at-Arms*—James Cadigan.

*Doorkeeper*—H. J. Johnson.

*Watchman*—John Donelly.

*Messenger*—E. L. Yager.

CARPENTER, *Chief Clerk*.

Mr. Aiken, of Deer Lodge, offered the following resolution:

*Resolved*, That a vote of thanks be tendered, by this House, to Secretary Callaway for swearing in the members.

Moved, by Mr. Sanders, that the resolution be laid on the table.

Carried.

Mr. Sanders offered the following resolution:

*Resolved*, That the Clerk be instructed to inform the Council that the House is permanently organized and ready to transact business.

Adopted.

Mr. Ezekiel moved that a committee of three be appointed on Rules for the government of this House, and that the rules of the last House be in force until changed by said committee.

Carried.

The Chair appointed Messrs. Ezekiel, Coleman, and Dusold said committee.

Mr. Sanders, of Lewis and Clark, moved a reconsideration of the vote by which the election of Messenger was postponed until to-morrow.

Carried.

The election of Messenger being in order, the following were placed in nomination: Richard Watson, Thomas Thexton, Charley Harris, Willie Clark, Van Orten.

The roll being called, resulted as follows: Richard Watson received ten votes, Thomas Thexton received eight votes, Charley Harris received one vote, Willie Clark received three votes, Van Orten received three votes.



There being no choice, the roll was called again, which resulted in Richard Watson receiving thirteen votes, Thomas Thexton receiving eight votes, Van Orten receiving one vote, Willie Clark receiving two votes.

Richard Watson having received a majority of all the votes cast, was declared, by the Chair, duly elected Messenger of this House.

Mr. Dean, of Deer Lodge, offered the following resolution :

*Resolved*, That the reporters for the press be admitted to seats within the bar of the House.

Adopted.

Mr. Coleman, of Gallatin, offered the following resolution :

*Resolved*, That we elect one Assistant Clerk of this House.

Mr. Sanders moved to lay the resolution on the table, to be taken up next Thursday at 11 o'clock A. M. The ayes and nays being called, was carried.

Attachees of the House were sworn in by the Speaker.

Message from the Governor announcing Charles H. St. Clair as private secretary to the Governor, and asking the House to respect him as such.

Mr. Ezekiel moved that a committee of three be appointed to wait on the Governor and inform him that the House is permanently organized, and ready to receive any communication which he may wish to make.

Carried.

Chair appointed Messrs. Ezekiel, Sanders and Sutton such committee.

Mr. Ezekiel, chairman of said committee, reported that the Governor would communicate with the House through his private secretary immediately.

Communication through his private secretary, submitting the message of the Governor.

Message ordered read by the Clerk.

Mr. Ezekiel moved that the further consideration of the Governor's message be postponed until next Thursday at 2 o'clock P. M.

Carried.

Message from the Council received and read by the Clerk.

COUNCIL CHAMBER,  
VIRGINIA CITY, M. T., April 14th, 1873. }

MR. SPEAKER—I am instructed by the Council to inform your honorable body that, the House concurring, the Council has adopted the joint rules of the last Legislative Assembly for the government of this Assembly when in joint session.

CARPENTER, *Chief Clerk.*

Mr. Sanders gave notice that he would on to-morrow, or some subsequent day, introduce a bill to fix the time when the enactments of the Legislative Assembly at its present session shall take effect.

Also, a bill to enlarge the suffrage by amending section one of chapter twenty-three of an act entitled An Act revising, re-enacting and codifying the general and permanent laws of Montana Territory, approved January 12th, 1872.

Mr. Ezekiel gave notice that he would on to-morrow or some future day, introduce a bill entitled An Act to amend section one of an act relating to elections, being chapter twenty-three of an act entitled an act revising, re-enacting and codifying the general and permanent laws of Montana Territory, approved January 12th, 1872.

Mr. Sanders moved to adjourn to 10 o'clock A. M. to-morrow morning.

Mr. Ezekiel moved to amend by inserting half-past nine A. M.

Lost.

Original motion carried.

House adjourned to 10 o'clock A. M. to-morrow.

J. H. ROGERS,  
*Speaker of the House.*

W. W. CHAPMAN,  
*Chief Clerk of the House.*

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## SECOND DAY.

### MORNING SESSION.

APRIL 15, 10 o'clock A. M.

House met pursuant to adjournment. Mr. Speaker in the chair.

All present.

Journal of yesterday read, corrected and approved.

Communication from the Governor announcing Charles H. St. Clair his private secretary. Read by the clerk and ordered placed upon the journal of yesterday.

Communication from the Governor, transmitting the report of the Territorial Auditor and Treasurer, received and read.

The Chair announced the standing committees of the House, as follows :



*Ways and Means*—R. K. Emerson, J. Hartwell, J. C. Kerley.

*Judiciary*—G. S. Coleman, W. F. Sanders, C. Mead.

*Internal Improvements*—O. Curtis, S. Mallory, J. A. Brown.

*Territorial Affairs*—C. L. Harrington, I. Dean, R. K. Emerson.

*Finance*—C. W. Sutton, W. A. Chessman, O. Curtis.

*Roads and Highways*—I. Dean, R. K. Emerson, J. Kennedy.

*Public Lands*—S. Mallory, C. L. Harrington, G. W. McCauley.

*Federal Relations*—Benj. Ezekiel, Alex. Carmichael, E. D. Aiken.

*Education*—W. F. Sanders, I. Stafford, J. M. Alger.

*Towns and Counties*—J. A. Brown, J. Hartwell, Benj. Ezekiel.

*Military Affairs*—W. A. Chessman, A. Dusold, C. M. Tate.

*Incorporations*—J. Kennedy, G. L. Coleman, A. Dusold.

*Agriculture and Manufactures*—C. M. Tate, C. C. O'Keefe, J. Hartwell.

*Elections*—C. Mead, George Heldt, J. C. Kerley.

*Indian Affairs*—I. Stafford, George Heldt, C. C. O'Keefe.

*Mines and Minerals*—E. D. Aiken, George W. McCauley, C. W. Sutton.

*Engrossment*.—Geo. Heldt, C. L. Harrington, O. Curtis.

*Enrollment*.—J. M. Alger, Benj. Ezekiel, W. A. Chessman.

*Printing*.—J. C. Kerley, Alex. Carmichael, C. W. Sutton.

Report of the committee on rules was presented by the chairman, Mr. Ezekiel. Read by the clerk, and on motion of Mr. Sanders, report was received, adopted, and committee discharged.

#### Notice of Bills :

Mr. Alger, of Deer Lodge, gave notice of a bill to amend an act entitled An Act relating to the killing of game and catching of fish.

Mr. Mead, of Beaverhead, gave notice of a bill to amend article 10, of chapter 21, of the codified statutes of Montana Territory, entitled county and county officers, approved January 12, 1872.

Also, a bill to amend chapter 2, of title 16, of the codified statutes of Montana Territory, entitled courts of justice in this Territory, approved January 12, 1872.

Mr. Ezekiel, of Madison, gave notice of a bill for an act to amend section 19, of chapter 8, of the codified statutes of Montana, being an act defining the duties of territorial auditor and territorial treasurer.

Also, a bill for An Act authorizing the territorial auditor to perform certain duties.

Also, a bill to amend chapter 19 of the codified laws of Montana, being that portion relating to costs and fees.

Mr. O'Keefe gave notice of a bill repealing the dog tax law.

Mr. Coleman, of Gallatin, gave notice of a bill to repeal section 10 of an act entitled An Act concerning license.

Also, a bill to amend section 9, entitled jails and prisons.

Also, a bill to amend section 1, of chapter 7, of the codified laws of the Territory of Montana.

Also a bill making it the duty of county clerks to perform the duties of the clerks of the district courts in certain cases, and regulating the fees of the clerks of said courts.

Mr. Sanders, of Lewis and Clark, gave notice of a bill to amend certain sections of an act entitled An Act to regulate proceedings in civil cases in the courts of justice of the Territory of Montana.

Also, a bill to provide for the incorporation of railroad companies.

Also, a bill to permit the various counties to foster internal improvements therein.

Also, a bill to provide for the convenient and speedy publication of the amendments of the session to the ensuing laws.

Also, a bill to define and punish certain offenses therein named.

Also, a bill to amend an act entitled An Act concerning the rights of way, easements, and developments of mines, approved January 4, 1872.

Also, a bill to amend articles one and two, of chapter 45, of An Act revising, re-enacting, and codifying the general and permanent laws of Montana Territory, approved January 12, 1872, relating to quartz lodes, by confining the dimensions of claims thereon to the dimensions defined by the laws of the United States, and for other purposes.

Also, a bill to amend an act entitled An Act to incorporate the historical society of Montana, approved February 2, 1865.

Mr. Ezekiel gave notice of a bill to amend section one of an act relating to elections, being chapter 23 of an act entitled An Act revising, re-enacting, and codifying the general and permanent laws of Montana Territory, approved January 12, 1872.

Mr. Kerley, of Deer Lodge, gave notice of a bill to exempt firemen from jury duty and the payment of road and poor tax.

Also, a bill to provide against the evils resulting from the sale of intoxicating liquors.

Also, a bill to provide for the leasing of the territorial prison.

Also, a bill to repeal article 8, chapter 21, of the codified laws.



Also, a bill to repeal an act to provide for the forfeiture to the territory of placer mines held by aliens.

Also, a substitute for section 12 of the act concerning licenses.

Also, a bill to legalize the acts of certain county and district officers.

Moved by Mr. Ezekiel that the vote by which the consideration of the Governor's message was postponed until next Thursday be reconsidered.

Carried.

Moved by Mr. Ezekiel that the House resolve itself into Committee of the Whole on the Governor's message.

Carried.

House resumed.

Communication from the Council read by the clerk.

House Bill No. 3 ordered read first time.

House Bill No. 1 read first time, and, on motion of Mr. Sanders, the rules suspended, read second time by its title, and referred to Committee on Elections.

House Bill No. 2 read first time, and, on motion of Mr. Mead, was read second time by its title and referred to Committee on Elections.

Mr. Sanders offered the following resolution :

*Resolved*, That the House concur with the Council in adopting the rules of the last session for the government of the Assembly, when in joint session.

Adopted.

Mr. Ezekiel offered the following resolutions :

*Resolved*, That the Secretary of the Territory be requested to furnish one hundred copies of the Rules of the House, and the Joint Rules of both Houses.

*Resolved*, That the Chief Clerk be instructed to request the Secretary of the Territory to have printed five hundred Rolls of the Members of the House, and fifty copies of the Standing Committees.

Adopted.

House took recess until 2 o'clock, P. M.

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2 o'clock, P. M.—House resumed. Mr. Speaker in the chair.

Roll called—all present.

Mr. Emerson, Chairman of the Committee of the Whole, on the Governor's Message, reported as follows :

Mr. Speaker.—The Committee of the Whole, to whom was referred the Governor's Message, beg leave to report as follows, and recommend its adoption :

That portion relating to the Penitentiary was referred to the Committee on Territorial Affairs.

That portion in reference to the incongruity of the Codified Laws was referred to the Committee on Judiciary.

That portion referring to County Affairs was referred to the Finance Committee.

That portion referring to County Assessors was referred to the Committee of Ways and Means.

That portion referring to Interest on County Bonds was referred to Committee on Finance.

That portion referring to Deeds of Violence was referred to the Judiciary Committee.

That portion in regard to Railroad matters was referred to a special committee of one from each county.

That portion of the Message in relation to the Territorial Auditor was referred to the Finance Committee.

That portion in relation to Elections was referred to the Committee on Elections.

All of which is respectfully submitted,

R. K. EMERSON,  
*Chairman of Committee.*

On motion of Mr. Kerley, the report was adopted.

Mr. Speaker appointed a Select Committee of one from each county, as follows: Samuel Mallory, of Madison County; James M. Alger, of Deer Lodge County; C. Mead, of Beaverhead County; James Kennedy, of Missoula County; O. Curtis, of Jefferson County; C. M. Sutton, of Meagher County; G. L. Coleman, of Gallatin County; W. F. Sanders, of Lewis and Clark County.

Mr. Coleman, of Gallatin, H. B. No. 4.—A Bill to amend Section 9, of an Act entitled "Jails and Prisons." Read first time.

H. B. No. 5.—A Bill making it the duty of the County Clerks to perform the duties of clerks of the district court, in certain cases, and regulating the fees of clerks of said courts.

Read first and second time and referred to Committee on Judiciary.

House Bill No. 6.—A Bill to repeal an act entitled An Act concerning licenses, read first and second time and referred to Finance Committee.

The ayes and nays on the suspension of the rules, resulted as follows:

*Ayes*—Messrs. Aiken, Alger, Brown, Carmichael, Coleman, Curtis, Dean, Kennedy, Kerley, Mallory, Mead, McCauley, O'Keefe, Stafford, Sutton, Tate and Mr. Speaker—18.

*Nays*—Messrs. Chessman, Dusold, Ezekiel, Hartwell, Heldt and Sanders—6.

The ayes and nays being called on the original resolution, resulted as follows:

*Ayes*—Aiken, Alger, Brown, Carmichael, Coleman, Ezekiel, Kennedy, Kerley, Mead, McCauley, O'Keefe, Sutton, Tate and Mr. Speaker—14.

*Nays*—Messrs. Chessman, Curtis, Dean, Dusold, Emerson, Hartwell, Heldt, Mallory, Sanders and Stafford—10.

Communication from the Council, read.

C. C. Resolution No. 1 read first time. Moved by Mr. Ezekiel that the rules be suspended, and the resolution read second and third times, and put on its final passage.

Lost.

Mr. Sanders introduced House Bill No. 7. Rules suspended and Bill read first and second times and referred to Committee on Judiciary.

Mr. Speaker appointed Messrs. Carmichael, of Madison, and Alger, of Deer Lodge, Standing Committee on Engrossment.



Mr. Coleman introduced H. B. No. 8. Rules suspended, read first and second times, and referred to Committee on Judiciary.

On motion of Mr. Sanders, the vote by which the resolution was laid on the table providing for an election of an assistant clerk, was reconsidered.

Original question put to vote and carried.

Messrs. H. C. Wilkinson, of Lewis and Clark, and Alex. H. Beattie, of Lewis and Clark, were placed in nomination. Roll called, which resulted in A. H. Beattie receiving 15 votes, and Mr. Wilkinson, 9 votes.

Mr. Beattie having received a majority of all the votes cast, was declared by the Chair duly elected assistant clerk of this House.

On motion of Mr. Alger, this House adjourn until 10 o'clock, A. M., to-morrow.

J. H. ROGERS,  
*Speaker of the House.*

W. W. CHAPMAN, *Chief Clerk.*

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### THIRD DAY.

#### MORNING SESSION.

APRIL 16, 1873.

House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—quorum—absent, Harrington.

Journal of preceding day read and approved.

Mr. Kerley, from Committee on Printing, reported as follows :

MR. SPEAKER—Your Committee on Printing have conferred with the proprietor of the *Montanian*, and ascertained that he will print House Bills, forty copies each, for one dollar per thousand ems, and we contracted with him for printing the bills now in the hands of the committee at that price.

We also interviewed the Secretary of the Territory, and was informed that he reserved the right to order the printing of such bills as he deemed necessary, as the government of the United States paid one dollar and fifty cents (\$1.50) per thousand ems for all bills printed.

Report of committee received.

Notices of introduction of bills :

By Mr. Mead : A bill for an act to repeal section one (1) of chapter ninety-four (94) of an act concerning county warrants and for other purposes, approved January 12, 1872.

Also : A bill for an act to repeal all of chapter eighty-six (86) of the general laws of Montana Territory, approved January 12, 1872.

Also : A bill for an act to amend section one hundred and six (106) of article eight (8) concerning county assessors.

Also : A bill for an act to amend section one of chapter twenty-two of the codified laws of Montana Territory, entitled Divorce.

Also : A bill for an act to amend section twelve of chapter twenty-one of an act entitled Counties and County Officers.

Also : A bill for an act to repeal chapter ninety of an act entitled An Act to prevent swine from running at large.

Also : A bill for an act to amend section one hundred and forty-seven of chapter ten of the criminal laws of Montana Territory, approved January 12, 1872.

By Mr. Kerley : A bill for an act to amend section four of the act concerning licenses.

Also : A bill to amend sections fifty-eight, sixty-two, one hundred and thirty-one, one hundred and thirty-three, one hundred and seventy-four of the act concerning crimes and punishments.

Also : A bill for an act to amend sections one hundred and thirty-eight, two hundred and forty-three, two hundred and forty-nine, of the civil practice act.

Also : A bill for an act empowering the Legislative Assembly to alter, amend or repeal charter and corporation acts.

Also : A bill for an act to amend the civil practice act, approved January 12, 1872, regulating the number of persons required to constitute a Territorial grand jury.

By Mr. Emerson : A bill for an act to amend section seventeen of an act entitled An Act to provide for a system of common schools.

By Mr. Kennedy : A bill for an act to amend sections two, four and five of article two in chapter fifty-three of the codified laws of Montana Territory, relating to roads, highways, supervisors and their duties.

By Mr. Sanders : A bill for an act to fix the times and places for holding the Supreme Court of the Territory of Montana.

By Mr. Coleman : A bill for an act fixing the punishments of vagrants and idlers.

Also : A bill for an act authorizing county treasurers to sue for and collect delinquent taxes.

Also : A bill for an act to amend section four of an act entitled An Act to provide for the collection of revenue.

Also: A bill for an act to amend section one hundred and forty-six of an act entitled An Act concerning crimes and punishments.

By Mr. McCauley: A bill for an act to amend section eight of an act concerning an act relating to licenses, in chapter seventy-eight of the codified laws of Montana Territory.

By Mr. Tate: A bill for an act amendatory of an act entitled Counties and County Officers.

Introduction of bills:

By Mr. Ezekiel: H. B. No. 9, a bill to authorize the Territorial Auditor to perform certain duties, and repeal certain acts. Read first and second times and ordered printed.

By Mr. Mead: H. B. No. 10, a bill entitled An Act to amend article ten of chapter twenty-one of an act revising, re-enacting and codifying the general and permanent laws of Montana Territory, approved January 12, 1872. Read first and second times and ordered printed.

By Mr. Kerley: H. B. No. 11, a bill for an act to repeal an act to provide for the forfeiture to the Territory of placer mines held by aliens. Read first and second times and referred to Committee on Territorial affairs.

Under suspension of the Rules, H. B. No. 11 was referred to Committee on Territorial Affairs.

Introduction of bills:

By Mr. Kerley: H. B. No. 12, an act to repeal an act to provide against the evils resulting from the sale of intoxicating liquors. Read first time.

By Mr. Mead: H. B. No. 13, an act entitled An Act to amend chapter 2 of title 16 of the Civil Practice Act of Montana Territory, approved January 12th, 1872. Rules suspend-

ed; read first and second times by its title, and referred to Committee on Judiciary.

By Mr. Alger: H. B. No. 14, an act amendatory of an act relating to the killing game and catching of fish. Read first and second time by its title and referred to Committee on Territorial Affairs.

By Mr. Kerley: H. B. No. 15, an act to exempt firemen from jury duty and the payment of poor, poll and road tax. Read first time; second reading of the bill objected to by Mr. Sanders.

The ayes and nays being called for on the rejection of the bill, the following members voted:

*Ayes*—Messrs. Carmichael, Chessman, Coleman, Curtis, Dean, Ezekiel, Hartwell, Heldt, Mallory, Mead, McCauley, O'Keefe, Sanders, Stafford, Tate and Mr. Speaker—16.

*Nays*—Messrs. Aiken, Alger, Brown, Dusold, Emerson, Kennedy, Kerley and Sutton—8.

Absent—Harrington.

Bill rejected.

Mr. Sanders offered a preamble and resolution, tendering the use of the hall to Judge Rice, Vice President of N. P. R. R., which was adopted.

Mr. Kennedy offered a resolution requesting the Speaker to appoint a select committee of three to ascertain the number of miles traveled by members and officers of this House in coming and going from this Assembly.

Resolution adopted.

The Chair appointed Messrs. Kennedy, Tate and Chessman said Committee.

House took recess until 2 o'clock, P. M.



2 o'CLOCK P. M.—House resumed. Mr. Speaker in the chair.

Roll called—quorum present.

Absent—Harrington.

On motion of Mr. Ezekiel, the Chair appointed a Committee of three, consisting of Messrs. Ezekiel, Carmichael and Sutton, to wait upon Judge Rice and ascertain when he would avail himself of the use of the hall.

Communication from the Council through their Chief Clerk A. M. S. Carpenter.

Communication from the Governor through his private Secretary, submitting a special report of the Territorial Auditor. Read by the Clerk.

Mr. Sanders, on behalf of Mr. Alex. H. Beattie, declined the office of Assistant Clerk of this House.

Resignation accepted.

Report of the Committee on Ways and Means received and read, recommending the repeal of section 8 of chapter 21 of the codified laws.

Report adopted.

Mr. Kerley asked leave to amend report of Committee.

Granted, and report as amended was accepted.

Mr. Kerley, from Committee on Printing, reported H. Bs. 5, 7, 8, correctly printed with two exceptions.

Clerk ordered to correct errors.

Report accepted.

The Select Committee reported through their Chairman, Mr. Ezekiel, that Judge Rice would avail himself of the use of this Hall at 7½ o'clock P. M.

Report received and Committee discharged.

Mr. Mead gave notice of a bill for an act in relation to quartz and quartz mines.

Mr. Ezekiel: Of a bill for an act amending section 13 of chapter 21 of the codified statutes of Montana Territory, being an act relating to county and county officers, approved January 12, 1872.

Mr. Dusold: Of a bill for an act prohibiting the establishing and conducting dancing saloons or hurdy gurdy houses in the Territory of Montana.

Mr. O'Keefe: Of a bill for an act in regard to fences in Missoula county.

#### Introduction of Bills:

By Mr. Ezekiel: H. B. No. 17, for an act to amend section 19, of chapter 8, of the codified laws of Montana Territory, approved January 12, 1872; read first and second times, and referred to Joint Committee on Fees.

By Mr. O'Keefe: H. B. No. 18, an act to repeal a portion of section 23 of an act providing for the collection of revenue, approved January 12, 1872; read first and second times, and referred to Finance Committee.

Communication from the Council, through Chief Clerk A. M. S. Carpenter, read by clerk, giving notice of bills in the Council.

By Lawrence: Of a bill for an act to amend revenue laws.

By Mr. Newcomer: Of a bill for an act to regulate the fees of the clerk of the supreme court.

Also, a bill for an act to repeal the act providing for the election of county assessors.

Also, a bill for an act to legalize the acts of county assessors.

Also, a bill for an act to amend the law regulating appeals from probate courts.

By Mr. Bullock: A bill for an act incorporating the city of Helena.

By Mr. Bass: A bill for an act relating to county bonds and warrants.

By Mr. Garrigan: A bill for an act to repeal the estray law.

That the following bills have been introduced in the Council:

By Mr. Lawrence: C. B. No. 17, for an act to establish fees of sheriffs.

Also, C. B. No. 18, for an act to amend the license law.

By Mr. Newcomer: C. B. No. 19, a road law.

By Mr. Yager: C. B. No. 20, for an act to regulate the penitentiary at Deer Lodge.

Also, that C. B. No. 3, an act to repeal section 156 of the criminal laws, has passed the Council.

Committee on Ways and Means introduced H. B. No. 16, for an act to repeal article 8, of chapter 21, of the codified laws; read first and second times, and was referred to Committee of the Whole, Dusold in the chair.

House resumed—Mr. Speaker in the chair.

Communication from the Council, through Chief Clerk A. M. S. Carpenter.

Report of Committee of the Whole, that they rise, asking leave to sit again.

House went into Committee of the Whole again—Mr. Alger in the chair.

House resumed—Mr. Speaker in the chair.

Communication from the Council, through Chief Clerk A. M. S. Carpenter, informing the House that C. B. No. 4, to amend an act concerning district attorneys; also, C. B. No. 10, to amend section 563 of the civil practice act, have passed the Council.

Also, that the Council have referred all bills relating to fees of officers to a Joint Select Committee, and that the Council have appointed Messrs. Newcomer, Lawrence, Beck, and Yager to compose that committee, and respectfully ask the House to concur and appoint a similar committee on the part of the House.

Under suspension of rules, Mr. Ezekiel offered the following resolution :

*Resolved*, That the House appoint a Joint Select Committee of eight, to act with the Joint Select Committee of the Council, to report a fee bill.

Adopted.

The speaker appointed Messrs. Ezekiel, Curtis, Heldt, Brown, Kerley, Kennedy, Tate, and Sutton.

On motion of Mr. Kerley, the vote by which the Secretary was requested to have the House rules printed was reconsidered. Original resolution rejected.

Motion to adjourn withdrawn.

Mr. Alger, chairman of the Committee of the Whole, reported in favor of H. B. No. 16.

Report received and adopted.

House adjourned to 10 o'clock A. M. to-morrow.

J. H. ROGERS,  
*Speaker of the House of Representatives.*

W. W. CHAPMAN, *Chief Clerk.*

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#### FOURTH DAY.

APRIL 17, 1873.

House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called. Absent—Mr. Brown.

Quorum present.

Journal of yesterday read and approved.

Introduction of bills:

By Mr. Ezekiel: H. B. No. 17, An Act to amend section 19, chapter 8, of the Codified Laws. Read first and second times and referred to the Committee on Fees.

By Mr. O'Keefe: H. B. No. 18, a bill to repeal a portion of section 23 of an act providing for the collection of revenue. Read first and second times and referred to the Committee on Finance.

H. B. No. 4, read second time by its title, and referred to Committee on Judiciary.



H. B. No. 3, read second time by its title, rules suspended, bill considered engrossed, read third time, leave granted to correct, correction made, bill put on its final passage, which resulted as follows :

*Ayes*—Aiken, Alger, Coleman, Curtis, Dean, Dusold, Emerson, Ezekiel, Hartwell, Harrington, Heldt, Kennedy, Kerley, Mallory, Mead, McCauley, O'Keefe, Sanders, Stafford, Sutton, Tate, Mr. Speaker—22.

*Nays*—None.

Bill passed. Title agreed to.

H. B. No. 12, read second time and referred to Committee on Territorial Affairs.

Mr. Ezekiel, under suspension of the rules, offered the following resolution :

*Resolved*, That the Engrossing and Enrolling Clerks of the House be instructed to act as assistant clerks during such times as their services are not required at their respective duties.

Resolution adopted.

C. B. No. 3: Introduced by Mr. Beck, of Gallatin, a bill to repeal section 156 of Criminal Law of Montana. Read first and second times.

Mr. Sanders moved to amend by striking out certain sections.

Communication from the Council through their Chief Clerk, Mr. A. M. S. Carpenter.

Mr. Sanders, by leave of the House, withdrew amendments to bill and moved to reject the bill.

Mr. Coleman moved the House go into Committee of the Whole on C. B. No. 3.

Ruled out of order.

The yeas and nays being called on previous question, resulted as follows :

*Ayes*—Messrs. Aiken, Alger, Brown, Carmichael, Chessman, Dusold, Emerson, Hartwell, Heldt, Kerley, Mallory, Mead, McCauley, Sanders, Mr. Speaker—15.

*Nays*—Messrs. Coleman, Dean, Ezekiel, Harrington, Kennedy, O'Keefe, Stafford, Sutton, Tate—9.

Bill was rejected.

House took a recess till 2 o'clock P. M.

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2 O'CLOCK P. M.—Mr. Speaker in the chair.

Roll called—all present.

C. B. No. 4 : Introduced by Mr. Bullock, of Lewis and Clark, An Act to amend an act creating the office of district attorneys in each of the organized counties in Montana Territory. Read first and second times by its title and referred to Committee on Fees.

C. B. No. 10 : Introduced by R. Lawrence, of Lewis and Clark, An Act to amend 563 of the civil practice act. Read first and second times by its title and amended by inserting after the word "without," in the 26th line of said section, and before the word "cost," the words "prepayment of," also striking out the words "and approved by the Governor."

Communication from the Governor, through his private secretary, C. H. St. Clair, submitting special report of Territorial Auditor.

C. B. No. 21: Introduced by Mr. Newcower, of Deer Lodge, An Act to amend an act re-enacting, revising, and codifying the statutes of Montana, regulating appeals from probate to district courts. Read first and second times, and referred to the Committee on Judiciary.

Report of the Committee on Finance; recommend the repeal of section 1, on page 638, entitled An Act concerning county warrants and for other purposes, approved January 11, 1872.

Also, that section 2, on page 479, relating to interest on county bonds, be repealed.

Report was received.

Committee on Printing reported H. Bs. Nos. 1, 2, and 3, correctly printed. That H. B. No. 6 has first section incorporated in the enacting clause.

A majority report of Committee on Judiciary, recommend the passage of H. B. No. 5.

Report received.

A minority report by Mr. Sanders, of Lewis and Clark, received, adverse to its passage, and a motion to adopt.

Lost.

Motion to adopt majority report.

Carried.

*Ayes*—Messrs. Aiken, Alger, Brown, Carmichael, Chessman, Curtis, Dean, Dusold, Emerson, Ezekiel, Hartwell, Heldt, Kerley, Mallory, McCauley, O'Keefe, Sanders, Stafford, Mr. Speaker—19.

*Nays*—Messrs. Coleman, Harrington, Kennedy, Sutton, Tate—5.

Bill indefinitely postponed.

Majority report of Committee on Elections recommending the passage of H. B. No. 2, received.

Accepted and adopted.

Motion to adjourn.

Lost.

Committee on Judiciary, to whom was referred H. B. No. 8, recommended its passage.

A minority report of Committee on Elections to whom was referred H. B. No. 2, recommending amendments to certain sections received.

Motion to adopt report.

Lost.

Rules suspended, and notices of bills were given.

By Mr. Harrington : Of a bill for an act to amend section 11 of an act entitled An Act concerning licenses.

By Mr. Dusold : A bill for an act to amend section 1 of An Act concerning licenses, approved January 12, 1872.

By Mr. Mallory : A bill for an act to enforce the observance of the first day of the week, commonly called Sunday, as a day of rest.

By Mr. Carmichael : A bill for an act defining the duties of certain county and district officers, and the penalties for the non-performance thereof.

Introduction of bills :

By Mr. Sanders : H. B. No. 19, a bill for an act to regulate the times and places of holding the terms of the Supreme

Court of Montana. Read first and second times, and ordered printed.

By Mr. Mead: H. B. No. 20, an act to amend section 147, of chapter 10, of the Criminal Laws of Montana Territory, approved January 12, 1872. Read first and second times, and ordered printed.

Committee on Engrossment reported C. B. No. 10 correctly engrossed.

House adjourned until 10 o'clock A. M. to-morrow.

J. H. ROGERS,

*Speaker of House of Representatives.*

W. W. CHAPMAN, *Chief Clerk.*

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## FIFTH DAY.

APRIL 18, 1873.

House met pursuant to adjournment. Mr. Speaker in Chair.

Roll called—all present.

Journal of yesterday read and approved.

Mr. Ezekiel, of Madison, was called to the chair.

Mr. Sutton, from Committee on Finance, reported back H. B. No. 18, to repeal a portion of revenue law, recommending it do not pass.

Report received and adopted. Bill ordered engrossed.

Also, H. B. No. 6, to repeal the license law with recommendation that it do not pass.

Report was adopted.



Mr. Harrington, from the Committee on Territorial Affairs, reported back H. B. No. 12, recommending its passage.

Report received and adopted and bill ordered engrossed.

Notices of the introduction of bills were given :

By Mr. Sanders : Of an H. J. M. praying for an assay office in Montana Territory.

Also : An H. J. M. praying for an increase in the clerical force of the Legislative Assemblies of the several territories of the United States.

By Mr. Hartwell : Of a Bill for An Act requiring all officers of the territory to make periodical reports of the various sums of money or warrants received by them in payment for official services, rendered under the laws of the territory.

By Mr. Chessman : Of a Bill for An Act providing for the appointment of deputy clerks of the supreme court of this Territory.

Under a suspension of the rules, Mr. Dean offered a motion as follows :

*Resolved*, That no Bill to amend or repeal any existing law shall be introduced or read by the clerk, without the title of the act sought to be amended or repealed, with the page or pages of the Statutes of 1872, on which the same may be found, appear in the title thereof.

Resolution adopted as Rule No. 55 of this House.

Mr. Emerson introduced H. J. R. No. 2.

*Resolved, by the House, the Council concurring*, That from and after the 21st inst. there shall not be introduced any more new bills in either house for their consideration, without first obtaining a suspension of the rules, and no more notices of

new bills from and after the 19th inst., unless to amend, to alter or repeal statute laws. Read first time.

Mr. Kerley offered the following resolution :

*Resolved*, That the Territorial Auditor be instructed to furnish each member of the House with four copies of such daily papers as they may select, and also three copies of weekly papers, to be by them selected.

Mr. Mead moved to amend, by inserting six copies in place of four, and add *Montanian* after the word daily, and striking out the words "three copies of weekly papers, to be by them selected."

Amendment adopted.

Motion to amend, inserting "one" in place of "six."

The ayes and nays being called, the motion was lost by the following vote :

*Ayes*—Messrs. Chessman, Hartwell, Mallory and Sanders—4.

*Nays*—Messrs. Aiken, Alger, Brown, Carmichael, Coleman, Curtis, Dean, Dusold, Emerson, Ezekiel, Harrington, Heldt, Kennedy, Kerley, Mead, McCauley, Stafford, Sutton, Tate and Mr. Speaker—20.

Absent—O'Keefe.

Motion by Mr. Rogers to strike out six and insert four in lieu thereof, was carried.

Original resolution, as amended, was adopted by the following vote :

*Ayes*—Messrs. Aiken, Alger, Brown, Carmichael, Coleman, Curtis, Dean, Ezekiel, Harrington, Kennedy, Kerley, Mead, McCauley, O'Keefe, Stafford, Sutton and Mr. Speaker—18.

*Nays*—Messrs. Chessman, Dusold, Hartwell, Heldt, Mallory, Sanders and Tate—7.

Mr. Kerley offered the following resolution:

*Resolved*, That unless the House otherwise direct, in all debates in this House, the speeches shall be limited to ten minutes each.

On motion of Mr. Sanders, the resolution was made a portion of Rule 8 of the House.

Mr. Coleman introduced H. B. No. 22, for an act to provide for the punishment of vagrants. Read first and second times, by title, and referred to Judiciary Committee.

Also, H. B. No. 21, for an act to amend an act entitled An Act concerning criminal punishment, approved January 12, 1872. Read first and second times, by its title, and referred to Judiciary Committee.

Mr. Tate introduced H. B. No. 24, for an act amendatory of an act entitled counties and county officers. Read first and second times, by its title, and referred to Finance Committee.

Also, H. B. No. 27, for an act to amend sections 138, 243, and 249, of the civil practice act. Read first and second times, by its title, and referred to Judiciary Committee.

Also, H. B. No. 28, for an act amending the act entitled An Act concerning crimes and punishments, approved January 12, 1872. Read first and second times, by its title, and referred to Judiciary Committee.

Also, H. B. No. 29, for an act to legalize the acts of district officers and county commissioners. Read first and second times, by its title, and referred to Committee on Ways and Means.

Also, H. B. No. 30, for an act to amend the act entitled An Act concerning licenses. Read first and second times, by its title, and referred to Committee on Ways and Means.

Also, H. B. No. 31, for an act to amend an act entitled An Act concerning licenses. Read first and second times, by its title, and referred to Committee on Finance.

Also, H. B. No. 32, for an act to amend section 117 of the civil practice act. Read first and second times, and referred to Committee on Judiciary.

Mr. Mead introduced H. B. No. 25, for an act for the discovery and location, and recording quartz lodes. Read first and second times, by its title, and ordered printed.

Mr. McCauley introduced H. B. No. 6, for an act to amend section 8 of an act entitled An Act concerning licenses, in chapter 18 of the Codified Laws of Montana Territory. Read first and second time, by its title, and referred to Committee on Ways and Means.

On motion of Mr. Emerson, House took recess until 2 o'clock P. M.

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2 O'CLOCK P. M.—House resumed. Mr. Speaker in the chair.

Roll called—all present.

Mr. Dusold introduced H. B. No. 33, an act prohibiting the establishment and conducting of dancing saloons and hurdy houses within the Territory of Montana. Read first and second times, by its title, and referred to Committee on Territorial Affairs.

Mr. Emerson introduced H. B. No. 34, for an act to amend section 17 of an act entitled An Act to provide for a system of common schools. Read first and second times, by its title, and referred to Committee on Education.

Mr. Mallory introduced H. B. No. 35, for an act to enforce the better observance of the first day of the week, commonly called Sunday. Read first and second times by its title and referred to Judiciary Committee.

Communication from the Council through the Chief Clerk, A. M. S. Carpenter.

H. C. R. No. 1 read second time.

Amended by Mr. Sanders by striking out the words "this House" in second line thereof where they occur, and inserting the words Legislative Assembly in lieu thereof.

Motion by Mr. Sanders to strike out the figures 26th where they occur in the third line, and inserting 30th in lieu thereof, was lost by the following vote :

*Ayes*—Messrs. Brown, Carmichael, Chessman, Curtis, Dean, Dusold, Hartwell, Heldt, O'Keefe and Sanders—10.

*Nays*—Messrs. Aiken, Alger, Coleman, Emerson, Ezekiel, Harrington, Kennedy, Kerley, Mallory, Mead, McCauley, Stafford, Sutton, Tate and Mr. Speaker—15.

Motion of Mr. Sanders to postpone action on resolution until next Monday at 10:30 o'clock, A. M.

Carried by the following vote :

*Ayes*—Messrs. Aiken, Alger, Brown, Carmichael, Chessman, Curtis, Dean, Dusold, Ezekiel, Hartwell, Heldt, Kennedy, Kerley, Mead, O'Keefe, Sanders and Stafford—17.

*Nays*—Messrs. Coleman, Emerson, Harrington, Mallory, McCauley, Sutton, Tate and Mr. Speaker—8.

C. C. R. No. 2 read first and second times.

On motion of Mr. Sanders, House concurred, and that all bills referred relative to licenses be recalled, and referred to said Joint Select Committee.



House appointed Messrs. Dean, Sutton and Carmichael to comprise such Committee.

Communication from Council through their Chief Clerk, A. M. S. Carpenter.

C. B. No. 1 introduced for an act to amend An Act entitled elections. Read first and second times by its title and referred to Committee on Elections.

C. B. No. 12, introduced by Mr. Lawrence for an act to change the name of Lewis and Clark county. Read first and second times by its title and referred to Select Committee, composed of the delegation from Lewis and Clark county.

C. B. No. 22, introduced by Newcomer, for an act to amend an act revising, re-enacting and codifying the statutes of Montana, entitled An Act in relation to counties and county officers. Read first and second times by its title and referred to Committee on Territorial Affairs.

C. C. R. No. 3 read first and second times.

On motion of Mr. Sanders the following resolution was adopted :

*Resolved*, That the paper marked C. C. R. No. 3, which is called in the proceedings of the Council a concurrent resolution, be returned to the Council as not containing any subject matter calling for the action of this House.

A petition from the citizens of Deer Dodge was received and read, asking for a repeal of the Alien law. Also, a remonstrance against the repeal of said law from citizens of same county.

Also, a petition, signed by S. B. Rice and (77) others from Virginia City, asking for a law enforcing the Christian observance of the Sabbath day.

Also, a petition signed by Mrs. Harriet N. Barkley and (33) others of the same place, asking for the passage of the same law.

Also, from citizens of Beaverhead county, praying the enactment of a law declaring Beaverhead Canyon a Territorial road and appropriating money to improve the same.

H. C. R. No. 3, introduced by Mr. Kerley. Read first and second times, rules suspended, resolution considered engrossed, read third time, and adopted by the following vote:

*Ayes*—Messrs. Aiken, Alger, Brown, Carmichael, Chessman, Coleman, Curtis, Dean, Dusold, Emerson, Ezekiel, Hartwell, Harrington, Heldt, Kennedy, Kerley, Mallory, Mead, McCauley, O'Keefe, Sanders, Stafford, Sutton, Tate and Mr. Speaker—25.

*Nays*—None.

On motion of Mr. Emerson the House adjourned until 10 o'clock A. M. to-morrow.

J. H. ROGERS,

*Speaker of House of Representatives.*

W. W. CHAPMAN, *Chief Clerk.*

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## SIXTH DAY.

APRIL 19, 1873.

House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—quorum present.

Journal of preceding day read and approved.

Communication from the Governor, through his private secretary, C. H. St. Clair, transmitting special report of Territorial Auditor, showing the amounts paid by the counties of Missoula and Madison to officers for salaries and fees, for the fiscal year ending March 1st, 1873, received and read. Referred to Joint Select Committee on Fees.

Mr. Speaker read the resignation of E. H. Hurley, Enrolling Clerk of the House.

On motion of Mr. Stafford, the resignation was accepted.

On motion of Mr. Sanders, the Speaker was requested to furnish Hurley with a certificate of the time he had served as Enrolling Clerk of this House.

Mr. Ezekiel called to the chair.

On motion of Mr. Coleman, the House proceeded to an election of Enrolling Clerk, to fill the existing vacancy.

Mr. Stafford nominated S. R. Shankland.

There being no other nominations, on motion of Mr. Rogers, Shankland was declared elected Enrolling Clerk of this House by acclamation.

By leave, Mr. Rogers presented a petition from the citizens of Deer Lodge praying for the repeal of the alien law. Referred to Committee on Territorial Affairs.

Mr. Heldt, from the Committee on Engrossment, reported H. Bs. Nos. 6, 12, 16 and 18 correctly engrossed.

Mr. Coleman, from Committee on Judiciary, reported in favor of the passage of H. B. No. 32.

Report received and adopted, and bill ordered engrossed.

Also, report of the same committee, submitting amendments to H. B. No. 4.

Report received and adopted, and bill ordered engrossed.

Also, report of the same committee recommending the rejection of H. B. No. 28.

Received and adopted, and bill ordered engrossed.

Also, report of the same committee, recommending an amendment to C. B. No. 21.

Report received, and bill, with amendment, ordered engrossed.

Also, report of the same committee, recommending that H. B. No. 22 do pass.

Received and adopted, and bill ordered engrossed.

Also, report of the same committee, recommending the rejection of H. B. No. 27.

Received and adopted. Bill ordered engrossed.

Also, report of same committee, recommending that H. B. No. 21 do pass.

Received and adopted, and bill ordered engrossed.

Mr. Emerson, from Committee on Ways and Means, reported back H. B. No. 29, recommending its passage.

Report received and adopted, and bill ordered engrossed.

Also, report of same committee, reporting back H. Bs. Nos. 26 and 30 without recommendation.

Bills ordered engrossed.

Mr. Harrington, from the Committee on Territorial Affairs, reported back H. B. No. 33, recommending its passage.

Report received, and bill ordered engrossed.

S. R. Shankland was sworn in by the Speaker as Enrolling Clerk of this House.

Mr. Harrington, from Committee on Territorial Affairs, reported back C. B. No. 23, recommending its passage.

Bill ordered engrossed.

Report of same committee, submitting a substitute for H. B. No. 14.

Received and adopted, and bill ordered engrossed.

Mr. Kerley, from Committee on Printing, reported H. Bs. Nos. 13, 19 and 20 correctly printed, with the exception of typographical errors, which are unimportant.

Report adopted.

Notices of bills were given :

By Mr. Heldt : For an act entitled An Act prescribing the duties of the clerk of the Supreme Court.

By Mr. Meade : A bill for An Act concerning cattle and stock.

By Mr. Sanders : A bill for an act entitled An Act making an appropriation for printing.

By Mr. Dusold : A bill for An Act concerning the running of horses upon the public roads.

By Mr. Sutton : A bill for An Act to prevent parties from shooting within the limits of towns and private enclosures.

By Mr. Chessman : A bill for An Act to repeal section 2 of chapter 27 of an act entitled An Act revising, re-enacting and codifying the general and permanent laws of Montana Territory, approved January 12th, 1872.

Also, a bill for An Act to repeal section 1 of chapter 94 of an act entitled An Act concerning county warrants, and for other purposes, approved January 11th, 1872.

By Mr. Ezekiel: A bill for An Act to fix the time of meeting for future sessions of the Legislative Assemblies of Montana, and to change the time of the ending of the fiscal year for territorial purposes.

By Mr. Coleman: A bill for an act to amend section 15, of chapter 6, entitled An Act revising, re-enacting, and codifying the general and permanent laws of Montana Territory, approved January 12, 1872.

By leave, without previous notice, Mr. Kerley introduced H. B. No. 36, for an act to provide for the leasing of the territorial prison.

Mr. Heldt offered the following resolution, which was adopted:

*Resolved*, That the secretary be requested to furnish this House one dozen pieces of tape, or one gross of small rubber bands, for the use of the standing and select committees.

H. B. No. 3 was introduced by Mr. Sanders, for an act to amend chapter 45 of an act revising, re-enacting, and codifying the general and permanent laws of Montana Territory, approved January 12, 1872, relating to quartz lodes, by conforming the dimensions of claims thereon to the dimensions defined by the laws of the United States, and for other purposes, found on pages 522 and 523. Read first time by title, and ordered printed.

H. B. No. 38 was introduced by Mr. Dusold, for an act to provide for the appointment of deputy clerks of the supreme court of the Territory of Montana. Read first and second times by title, and referred to Committee on Judiciary.

H. B. No. 39 was introduced by Mr. Dusold, for an act to amend An Act concerning licenses, approved January 10, 1872.



Read first and second times by title, and referred to Joint Committee on Licenses.

H. B. No. 40 was introduced by Mr. Coleman, for an act to amend section 15, of chapter 6, of An Act revising, re-enacting, and codifying the general and permanent laws of Montana Territory, approved January 12, 1872. Read first and second times by title, and referred to Judiciary Committee.

H. B. No. 41 was introduced by Mr. Sanders, for an act making an appropriation for printing the reports of the auditor and treasurer for the eighth fiscal year; made to the Governor December 1, 1872. Read first and second times by title, and referred to Committee on Finance.

Communication from the Council, through their Chief Clerk, A. M. S. Carpenter, informing the House that Mr. Garrigan had given notice of a bill to repeal certain sections and chapters of codified laws.

That Mr. Bass had introduced C. B. No. 30, for an act to amend an act authorizing the county commissioners of Missoula county to levy special tax.

That Mr. Stuart had introduced C. B. No. 31, for an act entitling litigants to attorneys fees, and damages in certain cases.

That Mr. Bullock had introduced C. B. No. 32, for an act to incorporate the city of Helena.

Also, C. B. No. 33, for an act authorizing the territorial treasurer to issue bonds.

That Mr. Lawrence had introduced C. B. No. 34, for an act for the relief of W. G. Barkley.

Also, that the Council had appointed Messrs. Newcomer, Beck, Fisher, and Yager as a Select Joint Committee on part of Council, to whom shall be referred all bills and matter concerning the regulation and management of the penitentiary

at Deer Lodge City; and the Council respectfully ask the House to appoint a like committee to act with said committee.

Also, that H. C. R. No. 3 had been indefinitely postponed.

H. B. No. 18, entitled an act to repeal a portion of section 23, of an act providing for the collection of the revenue, was taken up. Read third time, and made the special order of Friday, April 25, at 2 o'clock P. M.

On motion of Mr. Sanders, House took a recess until 2 o'clock P. M.

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2 o'clock, P. M.—House resumed. Mr. Speaker in the chair.

Roll called—quorum present.

H. B. No. 2, entitled an act to amend section 1, of chapter 23, of an act revising, re-enacting, and codifying the general and permanent laws of Montana Territory, approved January 12, 1872, was taken up, read third time. Motion to amend, by Mr. Sanders, was lost by the following vote:

*Ayes*—Messrs. Carmichael, Chessman, Dusold, Hartwell, Heldt, Mallory, and Sanders—7.

*Nays*—Messrs. Aiken, Brown, Coleman, Curtis, Dean, Emerson, Ezekiel, Harrington, Kennedy, Kerley, Mead, McCauley, Stafford, Sutton, Tate, and Mr. Speaker—16.

Absent—Messrs. O'Keefe and Alger.

Motion to amend, by Mr. Sanders, ruled out of order.

Motion to amend, by Mr. Ezekiel, by striking out the word "to" where it appears in 3d section, and insert the word "shall" in lieu thereof, was carried, and on the question,

“Shall the bill pass?” the ayes and nays being called, resulted as follows :

*Ayes*—Messrs. Aiken, Brown, Carmichael, Chessman, Coleman, Curtis, Dean, Dusold, Emerson, Ezekiel, Hartwell, Harrington, Kennedy, Kerley, Mead, McCauley, O’Keefe, Sanders, Stafford, Sutton, Tate, and Mr. Speaker—22.

*Nays*—Messrs. Heldt and Mallory—2.

Absent—Mr. Alger.

Title agreed to.

A motion to reconsider the vote by which H. B. No. 2 was passed, on motion of Mr Ezekiel, was laid on the table.

Mr. Chessman, from Select Committee, composed of the members from Lewis and Clark, reported back C. B. No. 12 with amendments. Received and made the special order for 10 o’clock, A. M. Wednesday.

Under suspension of the rules on motion of Mr. Kerley, the House appointed Messrs. Kerley, O’Keefe, Curtis and Chessman a Select Committee to act with a like committee of the Council, to whom shall be referred all bills and matters relating to the penitentiary at Deer Lodge City.

Under suspension of the rules, H. B. No. 32 was taken up, read third time, considered engrossed, and passed by the following vote :

*Ayes*—Messrs. Aiken, Brown, Carmichael, Chessman, Coleman, Curtis, Dean, Dusold, Emerson, Ezekiel, Hartwell, Harrington, Heldt, Kennedy, Kerley, Mallory, Mead, McCauley, O’Keefe, Sanders, Stafford, Sutton, Tate and Mr. Speaker—24.

*Nays*—None.

Absent—Mr. Alger.

Consideration of title deferred until 10 o'clock, A. M. Monday.

Under suspension of the rules, H. B. No. 12 was taken up, read third time, and on the question "Shall the bill pass?" the ayes and nays being called, resulted as follows:

*Ayes*—Messrs, Aiken, Brown, Carmichael, Chessman, Coleman, Curtis, Dean, Dusold, Emerson, Ezekiel, Hartwell, Harrington, Heldt, Kennedy, Kerley, Mallory, Mead, McCauley, O'Keefe, Stafford, Sutton, Tate and Mr. Speaker—23.

*Nays*—Mr. Sanders—1.

Absent—Mr. Alger.

Bill passed, title agreed to.

On motion of Mr. Sanders, House adjourned until 10 o'clock, A. M. Monday.

J. H. ROGERS,

*Speaker of the House of Representatives.*

W. W. CHAPMAN, *Chief Clerk.*

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## EIGHTH DAY.

APRIL 21, 10 o'clock A. M.

House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—quorum present.

Absent—Messrs. Alger, Ezekiel and Hartwell.

Journal of Saturday read and approved.

Consideration of the title of H. B. No. 32 being the special order, was, on motion of Mr. Sanders, deferred until 2 o'clock, P. M.

Communication from the Governor, through his private secretary, Charles H. St. Clair :

TERRITORY OF MONTANA,  
EXECUTIVE DEPARTMENT,  
VIRGINIA CITY, April 19, 1873. }

*To the Legislative Assembly :*

I have the honor to transmit herewith a report of the Territorial Auditor, showing the amount paid by the Territory for public printing, advertising, newspapers, &c., from December 1st, 1871, to March 1st, 1873.

Your attention is respectfully invited to the large amount expended for the purposes named. I submit to you whether the expenditure for printing done in the future cannot be largely reduced. I think it can ; and trust that some legislation will be had for that purpose.

Only one copy of said report having been furnished to this department, the same is sent to the House of Representatives, and a copy to the Council.

Respectfully,

B. F. POTTS, *Governor.*

TERRITORY OF MONTANA,  
AUDITOR'S OFFICE,  
VIRGINIA CITY, April 19, 1873. }

*To His Excellency, B. F. Potts, Governor of the Territory of Montana :*

SIR :—Yours of the 18th inst., requesting statement of amount paid by the Territory for public printing, newspapers for the Legislative Assembly, advertising, &c., and to whom paid, is received, and I herewith enclose statement as desired by you.

I have the honor to be very respectfully,

Your obedient servant,

W. H. RODGERS,  
*Territorial Auditor.*

*Territorial expense for public printing, advertising for Auditor and Treasurer, etc., from December 1st, 1871, to March 1st, 1873:*

G. F. Cope, publisher <i>Montanian</i> , for papers furnished seventh session of Legislative Assembly.....	\$1,200.00	
For printing for Legislative Assembly.....	1,357.00	
For printing blanks for Auditor and Treasurer.....	2,240.00	
For advertising for Auditor and Treasurer.....	121.19	
For printing school laws.....	300.00	\$5,218.19
Wilkinson, Ronan & Co., for printing five hundred copies Auditor and Treasurer's report.....	\$1,260.00	
For papers furnished seventh session Legislative Assembly.....	216.00	
For advertising for Auditor and Treasurer.....	111.24	\$1,577.24
Rocky Mountain "Gazette" Co., for advertising for Auditor and Treasurer.....		\$21.00
James H. Mills, for papers furnished seventh session of Legislative Assembly.....	\$ 23.90	
For printing blanks for Territorial Auditor .....	90.00	\$113.90
Fisk Brothers, for papers furnished seventh session of Legislative Assembly.....	216.00	
For advertising for Territorial Treasurer.....	66.00	\$282.00
Kerley, Smith & Co., for papers furnished seventh session of Legislative Assembly.....	\$23.90	
For advertising for Territorial Auditor.....	18.54	\$42.44
Total .....		\$7,264.77

AUDITOR'S OFFICE, M. T., }  
VIRGINIA CITY, April 19, 1873. }

I certify that the above statement is correct as appears upon Auditor's books.

W. H. RODGERS,  
*Territorial Auditor.*

Referred to Committee on Printing.

H. C. R. No. 1 was taken up and made the special order for Wednesday, April 24th, at 3 o'clock P. M.

The Speaker gave notice that he had signed C. C. R. No. 2.



A petition was presented and read from J. P. Taylor, and (43) other citizens of Madison county, remonstrating against the enactment of laws granting county or territorial subsidies to railroad companies. Read and referred to select committee composed of the delegation from Madison county.

Also, a petition signed by Chas. G. Hollbeck and (9) other citizens of Radersburg, praying for an act declaring certain alleys of said city closed and subject to pre-emption. Read and referred to Select Committee, composed of the delegation from Jefferson county.

Mr. Harrington, from the Committee on Territorial Affairs, to whom was referred petitions of Harriet B. Barkley and Samuel B. Rice and (140) other citizens of Virginia City, praying for a law enforcing the Christian observance of the Sabbath day, reported, recommending a law, empowering the constituted authorities of incorporated cities, towns, and villages, to provide, by ordinance, for such measure as the object sought by the petitioners.

Report received and adopted.

Mr. Coleman, from Committee on Judiciary, reported back H. B. No. 38, recommending its rejection.

Report received and adopted.

On motion of Mr. Sanders, all petitions referring to Sunday laws were referred to Judiciary Committee.

Mr. Coleman, from same committee, reported back H. B. No. 40, recommending it do pass.

Report received and adopted.

Mr. Kerly, from Committee on Printing, reported H. B. No. 36 correctly printed, with the exception of punctuation and typographical errors which are of no material consequence.

Mr. Coleman, from Judiciary Committee, reported back H. B. No. 7, with amendments, recommending the bill as amended do pass.

Report received and adopted. Bill and amendments ordered engrossed.

Report of Select Committee on Mileage, through chairman, Mr. Kennedy, received.

Mr. Sanders, from Judiciary Committee, reported back H. B. No. 35, with amendments, recommending the bill, as amended, do pass.

Report received and adopted, and bill, with amendments, ordered engrossed.

Mr. Sanders, under previous notice, introduced H. B. No. 42, an act to provide for the formation of railroad corporations in the Territory of Montana.

Mr. Sanders moved a suspension of the rules, and the bill be read first and second times, by its title, and ordered printed.

Amended by Mr. Coleman by striking out "second."

Ruled out of order.

Motion by Mr. Coleman to consider bill read first time and ordered printed.

Lost.

Original question being called, was carried. Bill ordered printed.

Under previous notice Mr. Chessman introduced H. B. No. 43, for an act to repeal section 1, of chapter 94, of an act entitled An Act concerning county warrants, and for other purposes. Read first and second times, by its title, and, on motion

of Mr. Ezekiel, rules suspended, bill considered engrossed, and put on its final passage.

On motion of Mr. Sanders, the vote was reconsidered by which the bill was considered engrossed and read a third time.

On motion of Mr. Sanders, bill was amended by striking out the words "of chapter 94."

Bill as amended was ordered engrossed.

Under previous notice, Mr. Heldt introduced H. B. No. 44: An Act to prescribe the duties of the Clerk of Supreme Court of the Territory of Montana. Read first and second times by its title, and on motion of Mr. Sanders, was amended by striking out the words "now on file and" in 5th line of first section, where they occur, and striking out the word "now," where it occurs, and inserting in lieu thereof the words "as may be."

Bill with amendments ordered engrossed.

Under previous notice, Mr. Harrington introduced H. B. No. 45, for An Act to amend section 11 of the act concerning licenses. Read first and second times by its title, and referred to Joint Committee on Licenses.

Under previous notice, Mr. Dusold introduced H. B. No. 46, entitled An Act to amend an act relating to counties and county officers, approved February 9th, 1865, and re-enacted and incorporated in, and made a part of an act entitled An Act revising, re-enacting and codifying the general and permanent laws of Montana Territory, approved January 12, 1872. Read first and second times by its title, and referred to Joint Committee on Fees.

On motion of Mr. Aiken, House took a recess till 2 o'clock  
P. M.

2 o'clock P. M.—House resumed. Mr. Speaker in the chair.

Roll called—quorum present.

Mr. Ezekiel offered the following substitute for title of H. B. No. 32, which was adopted and ordered engrossed: "An Act to amend section 117 of an act entitled An Act to regulate proceedings in criminal cases in courts of justice in Montana Territory, approved January 12, 1872."

H. C. R. No. 4, introduced by Mr. Harrington:

*Resolved*, That, the Council concurring, our delegate in Congress be instructed to use all honorable means to obtain an appropriation for the purpose of clearing the obstructions to navigation from the Upper Missouri River. Read first and second times, by its title, and ordered engrossed.

H. C. R. No. 5, introduced by Mr. Sanders:

*Resolved*, The Council concurring, that a joint select committee of two from the Council and three from the House be raised to consider to what subjects the legislation of this extraordinary session of the Legislative Assembly shall be confined.

H. C. R. No. 2, being called up, was read second time.

On motion of Mr. Sanders, House adjourned until 10 o'clock A. M. to-morrow.

J. H. ROGERS,  
*Speaker House of Representatives.*

W. W. CHAPMAN, *Chief Clerk.*

## NINTH DAY.

APRIL 22, 1873.

House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—quorum present.

Journal of preceding day read and approved.

Mr. Sutton, from Committee on Finance, reported back H. B. No. 49, recommending its passage.

Received and adopted.

A majority of the Committee on Judiciary reported back H. B. No. 19, recommending its rejection.

Also, a minority of said committee reported recommending its passage.

On motion of Mr. Ezekiel, majority report was adopted by the following vote :

*Ayes*—Messrs. Aiken, Carmichael, Coleman, Dean, Ezekiel, Harrington, Kennedy, Kerley Mead, Stafford, Sutton, Tate and Mr. Speaker—13.

*Nays*—Messrs. Alger, Brown, Chessman, Curtis, Dusold, Emerson, Hartwell, Heldt, Mallory, McCauley, O'Keefe, Sanders—12.

On motion of Coleman, the minority report was laid on the table.

Communication from the Governor, through his private secretary, C. H. St. Clair :

TERRITORY OF MONTANA,  
EXECUTIVE DEPARTMENT,  
VIRGINIA CITY, April 22, 1873. }

*To the Legislative Assembly :*

As required by law, I have made every reasonable effort to obtain labor for the convicts confined in the penitentiary during the past year, and at the highest rates that could be secured. My efforts met with only partial success. The amount realized up to April 1, 1873, was two hundred and sixteen dollars, which sum has been certified into the territorial treasurer, and receipts for the same are now on file in this department, subject to examination of the legislative assembly, or a committee appointed for the purpose.

Respectfully,

B. F. POTTS, *Governor.*

Referred to Joint Committee on Penitentiary Affairs.

Mr. Kerley, from the Committee on Printing, reported H. Bs. Nos. 25 and 37 correctly printed, with the exception of No. 25, which has the word "minning," in line 7 of section 3, instead of the word "running."

Mr. Heldt, from Committee on Engrossment, reported C. B. No. 10 correctly engrossed.

Mr. Ezekiel, from Joint Select Committee on Fees, reported back H. Bs. Nos. 17 and 46 and C. B. No. 4, recommending they do not pass.

Report received and adopted.

Also, that the Governor's message, referred to them, is returned without recommendation, as it contains merely a statement of amounts paid officers of certain counties.

Communication from the Council, through their chief clerk, A. M. S. Carpenter, that the following notices of bills had been given :



By Mr. Lawrence: Of a bill for the relief of Alexander Kemp.

Also: A bill to amend section 6 of the criminal practice act.

That the following bills have been introduced :

By the Joint Select Committee on Fees: C. B. No. 37, to amend an act regulating fees of county commissioners.

By Mr. Yager: C. B. No. 39, to provide for the payment of jurors.

By Mr. Fisner: C. B. No. 38, to make the sheriff of Jefferson county *ex officio* treasurer of said county.

By Mr. Garrigan: C. B. No. 40, to repeal section 10 of chapters 27 of an act concerning county treasurers.

By Committee on Ways and Means: C. J. R. No. 2, authorizing the territorial auditor to draw his warrants in favor of himself.

That C. J. R. No. 1, for the relief of L. M. Todd; C. B. No. 29, to amend section 459 of criminal practice act; C. B. No. 30, to amend an act to authorize the county commissioners of Missoula county to levy special tax; C. B. No. 32, to incorporate the city of Helena; C. B. No. 36, to establish fees of district clerks—have passed the Council.

By leave, without previous notice, Mr. Ezekiel, from Joint Committee on Fees, introduced H. B. No. 47, an act to establish and regulate the fees of witnesses, jurors, and certain officers in Montana Territory. Read first time, under suspension of the rules, and ordered printed.

Also: H. B. No. 48, an act to establish and regulate the fees of sheriffs in Montana Territory. Read first time, under suspension of the rules, and ordered printed.

Also: H. B. No. 50, an act to establish and regulate the fees of district attorneys and other officers in the Territory of Montana. Rules suspended, read first time, and ordered printed.

Also: H. B. No. 49, an act to establish and regulate the fees of assessors, coroners, and other officers in the Territory of Montana. Rules suspended, read first time, and ordered printed.

Also: H. B. No. 51, an act defining the word "folio," when used in acts relating to regulation of fees. Read first time, under suspension of the rules, and ordered printed.

By leave, on motion of Mr. Sanders, H. Bs. Nos. 25 and 37 were referred to Committee on Mines and Minerals.

H. J. R. No. 1 introduced by Mr. Ezekiel:

WHEREAS, The *Daily Montanian* publishes the entire minutes of each day's proceedings of the House and Council, at great expense to the publishers and without cost to the territory; and

WHEREAS, The said journal is being furnished to the members of this legislature every morning with the complete minutes of the day previous contained therein, by which the business of the bodies is greatly expedited, the members having minutes of their work before them; and

WHEREAS, The members of this legislature do derive the further benefit of having said published proceedings to send to their constituency, by which means said constituency may know of measures affecting them being considered by this legislature — thereby giving said constituency an opportunity to express their sense on such measures; therefore, be it

*Resolved by the House and the Council of the Legislative Assembly of the Territory of Montana*, That the publisher of the *Daily Montanian* be requested to furnish four copies of that journal to each member of the House and Council, so long as the same contains the proceedings of the two bodies, and the same con-

tinues in this extra session; and the auditor of the territory of Montana be, and he is hereby, ordered to audit the bill for the said papers furnished, and draw his warrant in favor of the publisher on the territorial treasurer for the amount.

Read first and second times.

A motion by Mr. Sanders, to amend by striking out the word "four" and inserting the word "one" in lieu thereof, was lost.

On motion of Mr. Sanders, was amended by striking out all down to, and including, the word "therefore." Ordered engrossed.

H. B. No. 52, introduced by Mr. Chessman: An act to repeal section 2 of chapter 27 of An Act revising, re-enacting and codifying the general and permanent laws of Montana Territory, on page 479. Read first and second times and ordered engrossed.

Mr. Heldt, from Committee on Engrossment, reported H. C. Resolutions Nos. 2, 4 and 5 correctly engrossed.

H. B. No. 53, introduced by Mr. Mead: An Act entitled An Act to collect, designate, drive and claim cattle and stock. Read first and second times by title and referred to Committee on Judiciary.

H. B. No. 54, introduced by Mr. Sutton, for An Act to prevent parties from shooting within the limits of towns and private enclosures. Read first and second times and referred to Committee on Towns and Counties.

H. B. No. 55, introduced by Mr. Sanders: An Act to define and punish certain offences therein named. Read first and second times and referred to Judiciary Committee.

H. B. No. 46 was called up, read third time and indefinitely postponed.

H. B. No. 13 was called up and recommitted to Committee on Judiciary.

Mr. Alger called to chair.

Mr. Speaker resumed the chair.

H. B. No. 2 was called up, read third time and indefinitely postponed.

H. B. No. 16 was called up, read third time and made the special order for 2 o'clock, P. M. Thursday.

C. B. No. 23 was called up, read third time and made the special order for 2 o'clock, P. M. Thursday.

C. B. No. 4 was called up, read third time and indefinitely postponed.

C. B. No. 10 was called up, read third time, and, under a suspension of the rules, referred to Committee on Judiciary.

Mr. Sanders gave notice of a Bill for An Act enabling certain counties of Montana Territory to foster internal improvements, by subscribing to the capital stock of a railroad.

Also, a Bill for an act to amend an act entitled, An Act to regulate proceedings in civil cases in courts of justice of Montana Territory, approved January 12, 1872.

On motion of Mr. Sanders, House took recess until 2 o'clock, P. M.

2 o'clock, P. M.—House resumed. Mr. Speaker in the chair.

Roll called—quorum present.

Absent—Messrs. Emerson, Ezekiel, Hartwell, Heldt and O'Keefe.

C. B. No. 32, introduced by Mr. Bullock: An Act to incorporate the City of Helena. Read first and second times and referred to Select Committee composed of the members from Lewis and Clark county.

C. B. No. 29, introduced by Mr. Lawrence, for An Act to amend section 459 of the criminal practice act, approved January 12, 1872. Read first and second times and referred to Committee on Judiciary.

C. B. No. 30, introduced by Mr. Bass, for An Act to amend an act, entitled An Act authorizing the county commissioners of Missoula county to levy special tax. Read first and second times and referred to Select Committee composed of the members from Missoula county.

C. J. R. No. 1, introduced by Mr. Yager for the relief of L. M. Todd. Read first and second times and referred to Committee on Finance.

Leave granted the members of Joint Select Committee on Territorial Prison to retire.

On motion of Mr. Sanders the vote by which H. Bills Nos. 47, 48, 49, 50 and 51 were considered read first time and ordered printed, were reconsidered.

Motion of Mr. Ezekiel, to instruct the Clerk to request the Secretary to return to the House H. Bills Nos. 47, 48, 49, 50 and 51.

Lost.

On Motion of Mr. Sanders, the rules were suspended and H. Bills Nos. 47, 48, 49, 50 and 51 were read first time and ordered printed.

C. B. No. 36, introduced by Joint Committee on Fees for an act to establish and regulate the fees of the Clerk of the District Court. Read first time and under a suspension of the rules ordered printed.

H. B. No. 22 being called up was read third time, and on motion of Mr. Ezekiel was indefinitely postponed.

On motion of Mr. Sanders, the vote by which the Bill was indefinitely postponed was reconsidered.

Mr. Heldt, from Committee on Engrossment, reported H. J. R. No. 1 correctly engrossed.

Motion of Mr. Ezekiel to indefinitely postpone H. B. No. 22 lost by the following vote :

*Ayes*—Messrs. Carmichael, Dean, Emerson, Ezekiel, Hartwell, Stafford and Mr. Speaker—7.

*Nays*—Messrs. Aiken, Alger, Brown, Coleman, Dusold, Harrington, Heldt, Kennedy, Mallory, Mead, McCauley, Sanders, Sutton and Tate—14.

Absent—Messrs. Chessman, Curtis, Kerley and O'Keefe—4.

And on the question "Shall the Bill pass?" the ayes and nays being called, resulted as follows :

*Ayes*—Messrs. Alger, Brown, Coleman, Dusold, Harrington, Heldt, Kennedy, Mallory, Mead, Sanders and Sutton—11.

*Nays*—Messrs. Aiken, Carmichael, Dean, Emerson, Ezekiel, Hartwell, McCauley, Stafford, Tate and Mr. Speaker—10.

Absent—Messrs. Chessman, Curtis, Kerley and O'Keefe—4.



Bill passed.

Title agreed to.

Communication from the Council through their Chief Clerk A. M. S. Carpenter, announcing that the Joint Committee on Fees had introduced a substitute for C. B. No. 14 to regulate the fees of county treasurers, which had passed.

Also: C. B. No. 44, to regulate the fees of probate judges, and the clerk thereof, which had passed.

Also: C. B. No. 45, to establish the fees of the secretary of the Territory, territorial auditor and treasurer, and superintendent of public instruction, which had passed.

That C. B. No. 42 had been introduced by Mr. Lawrence, for the relief of Alexander Kemp.

Also: C. B. No. 43, to amend section 6 of Criminal Practice Act.

Also, that H. B. No. 3. had been indefinitely postponed.

H. B. No. 21 being called up, was read third time, and on the question "Shall the Bill pass?" the ayes and nays being called resulted as follows:

*Ayes*—Messrs. Aiken, Alger, Brown, Carmichael, Coleman, Dean, Dusold, Emerson, Ezekiel, Hartwell, Harrington, Heldt, Kennedy, Mallory, Mead, McCauley, Sanders, Sutton, Tate and Mr. Speaker—21.

*Nays*—None.

Absent—Messrs. Chessman, Curtis, Kerley and O'Keefe—4,

H. C. R. No. 5 being called, was read third time and passed by the following vote:

*Ayes*—Messrs. Aiken, Alger, Brown, Carmichael, Coleman, Dean, Dusold, Emerson, Ezekiel, Hartwell, Harrington, Heldt, Kennedy, Mallory, Mead, McCauley, Sanders, Stafford, Sutton, Tate and Mr. Speaker—21.

*Nays*—None.

Absent—Messrs. Chessman, Curtis, Kerley and O'Keefe—4.

H. C. R. No. 4, being called up, was read third time, and passed by the following vote :

*Ayes*—Messrs. Aiken, Alger, Brown, Carmichael, Coleman, Dean, Dusold, Emerson, Ezekiel, Hartwell, Harrington, Heldt, Kennedy, Mallory, Mead, McCauley, Sanders, Stafford, Sutton, Tate and Mr. Speaker—21.

*Nays*—None.

Absent—Messrs. Chessman, Curtis, Kerley and O'Keefe—4.

H. C. R. No. 2, being called up, was read third time, and on motion of Mr. Coleman was laid on the table.

C. B. No. 44, introduced by Joint Committee on Fees for an act to establish and regulate the fees of probate judge and clerks thereof, was, by suspension of the rules, read first time and ordered printed.

C. B. No. 45, introduced by Joint Committee on Fees for an act to establish the compensation and fees of the secretary of the Territory, Territorial auditor and treasurer, and superintendent of public instruction, was, under suspension of the rules, read first time and ordered printed.

C. Substitute for C. B. No. 14, introduced by Joint Committee on Fees, An Act to establish and regulate the fees of the county treasurer. Rules suspended, read first time and ordered printed.

By leave Mr. Mead gave notice of a Bill for an act to amend sections 185, 189, 205 and 213 of article 5 of chapter 1 of general laws of Montana.

Mr. Alger moved to amend Rule 38, providing for the raising of Committees by inserting in 9th Committee after the word "Education" the words "and labor."

On motion of Mr. Coleman the House adjourned until 10 o'clock A. M. to-morrow.

J. H. ROGERS,

*Speaker of the House of Representatives.*

W. W. CHAPMAN, *Chief Clerk.*

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## TENTH DAY.

APRIL 23, 1873.

House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—quorum present.

Absent—Messrs. Kerley and Coleman.

Journal of preceding day read and approved.

C. B. No. 12, being the special order, was taken up, report of committee read, recommending an amendment by substituting the word "Edgerton" in place of word "Clark" where it appears in section (1).

On motion of Mr. Ezekiel, rules suspended, bill read third time, and, on the question "Shall the bill pass?" a call of the House was made. Absent, Mr. Dusold. Sergeant-at-Arms ordered to bring in the absentee.

On motion of Mr. Sanders the further call of the House was dispensed with, and motion of Mr. Ezekiel to suspend the rules and read bill third time, ruled out of order.

Amendment read.

Mr. Stafford called to the chair.

Mr. Speaker resumed the chair.

And the question being called on the adoption of the amendment, was lost.

Bill read third time and lost by the following vote:

*Ayes*—Messrs. Aiken and Dean—2.

*Nays*—Messrs. Alger, Brown, Carmichael, Chessman, Coleman, Curtis, Emerson, Ezekiel, Hartwell, Heldt, Kennedy, Kerley, Mallory, Mead, McCauley, O'Keefe, Sanders, Stafford, Sutton, Tate, and Mr. Speaker—22.

Absent—Mr. Dusold—1.

Mr. Heldt, from Committee on Engrossment, reported H. Bs. Nos. 19, 28, 29, 33, 40, 52, and Nos. 4, 7, 43, 44, as amended, and substitute for H. B. No. 14 correctly engrossed.

Mr. Sanders presented a petition from George D Thomas, and other citizens of Gallatin county, praying for the reduction of fees. Read and referred to Joint Committee on Fees.

Mr. Brown, from Committee on Towns and Counties, reported back H. B. No. 54, recommending amendment thereto.

Received and adopted, and ordered engrossed.

Mr. Sutton, from Joint Select Committee on Licenses, reported back H. Bs. Nos. 26, 30, 31, 39, and 45, recommending they do not pass.

Report adopted.

Sergeant-at-Arms reported Mr. Dusold in his seat.

H. B. No. 56: Introduced by Mr. Ezekiel, for an act to fix the time of holding the regular sessions of future Legislative Assemblies of Montana Territory, and to change the time for the ending of the fiscal year for territorial purposes. Read first and second times, and referred to Committee on Territorial Affairs.

H. B. No. 19: For an act to regulate the times and places of holding the terms of the Supreme Court of this Territory, was taken up, read third time, and, on the question "Shall the bill pass?" the ayes and nays being called, resulted as follows:

*Ayes*—Messrs. Chessman, Curtis, Dean, Dusold, Emerson, Hartwell, Heldt, Mallory, McCauley, O'Keefe, Sanders, Sutton, and Tate—14.

*Nays*—Messrs. Aiken, Alger, Brown, Carmichael, Coleman, Ezekiel, Kennedy, Kerley, Mead, Stafford, and Mr. Speaker—11.

Bill passed. Title agreed to.

H. B. No. 4: An act to amend section (9) of an act entitled jails and prisons, was taken up, read third time, and passed by the following vote:

*Ayes*—Messrs. Aiken, Alger, Brown, Carmichael, Chessman, Coleman, Curtis, Dean, Dusold, Emerson, Ezekiel, Hartwell, Harrington, Heldt, Kennedy, Kerley, Mallory, Mead, McCauley, O'Keefe, Sanders, Stafford, Sutton, Tate, and Mr. Speaker—25.

*Nays*—None.

Title amended and agreed to.

H. B. No. 7: An act to amend certain sections of an act entitled An Act to regulate proceedings in civil cases in the

courts of justice of the Territory of Montana, approved January 12, 1872, was taken up, read third time, and passed by the following vote :

*Ayes*—Messrs. Aiken, Alger, Brown, Carmichael, Chessman, Coleman, Curtis, Dean, Dusold, Emerson, Ezekiel, Hartwell, Harrington, Heldt, Kennedy, Kerley, Mallory, Mead, McCauley, O'Keefe, Sanders, Stafford, Sutton, Tate and Mr. Speaker—25.

*Nays*—None.

Title agreed to.

H. B. No. 28, for an act amending an act entitled Crimes and Punishments, approved January 12, 1872, was taken up, read third time and passed by the following vote :

*Ayes* — Messrs. Aiken, Alger, Brown, Coleman, Curtis, Dean, Ezekiel, Emerson, Hartwell, Heldt, Kennedy, Kerley, McCauley, O'Keefe, Stafford, Sutton, Tate and Mr. Speaker—18.

*Nays*—Messrs. Carmichael, Chessman, Dusold, Hartwell Mallory, Mead and Sanders—7.

Title amended and agreed to.

On motion of Mr. Coleman, House took a recess until 2 o'clock P. M.



2 o'CLOCK P. M.—House resumed. Mr. Speaker in the chair.

Roll called—quorum present.

Absent—Messrs. Ezekiel and Hartwell.

H. B. No. 33, an act prohibiting the establishment and conducting of dancing saloons and hurdy houses within the Territory of Montana, was taken up. Read third time and passed by the following vote :

*Ayes*—Messrs. Aiken, Alger, Brown, Carmichael, Chessman, Coleman, Dean, Dusold, Emerson, Ezekiel, Hartwell, Harrington, Heldt, Kennedy, Kerley, Mallory, Mead, McCauley, O'Keefe, Sanders, Stafford, Sutton, Tate and Mr. Speaker—24.

*Nays*—Mr. Curtis—1.

Title agreed to.

H. B. No. 40, an act to amend section 15 of chapter 6 of an act entitled An Act revising, re-enacting and codifying the general and permanent laws of Montana Territory, approved January 12, 1872, was taken up. Read third time and passed by the following vote :

*Ayes*—Messrs. Alger, Aiken, Brown, Carmichael, Chessman, Coleman, Curtis, Dean, Dusold, Emerson, Ezekiel, Hartwell, Harrington, Heldt, Kennedy, Kerley, Mallory, Mead, McCauley, O'Keefe, Sanders, Stafford, Sutton, Tate and Mr. Speaker—25.

*Nays*—None.

Title agreed to.

Mr. Heldt, from Committee on Engrossment, reported H. Bs. Nos. 27 and 38 and H. B. No. 35 as amended, and House amendment to C. B. No. 21, correctly engrossed.

H. B. No. 29, a bill to legalize the acts of district assessors and county commissioners, was taken up, read third time and passed by the following vote :

*Ayes*—Messrs. Aiken, Alger, Brown, Carmichael, Chessman, Coleman, Curtis, Dean, Dusold, Emerson, Ezekiel, Hartwell, Harrington, Heldt, Kennedy, Kerley, Mallory, Mead, McCauley, O'Keefe, Sanders, Stafford, Sutton, Tate and Mr. Speaker—25.

*Nays*—None.

Title agreed to.

H. B. No. 43, a bill for an act to repeal section 1 chapter 94 of an act entitled An Act concerning county warrants and for other purposes, was taken up, read third time and passed by the following vote :

*Ayes*—Messrs. Aiken, Alger, Brown, Carmichael, Chessman, Coleman, Curtis, Dean, Dusold, Emerson, Ezekiel, Hartwell, Harrington, Heldt, Kennedy, Kerley, Mallory, Mead, McCauley, O'Keefe, Sanders, Stafford, Sutton, Tate and Mr. Speaker—25.

*Nays*—None.

Title amended and agreed to.

The substitute for H. B. No. 14, an act amending an act entitled An Act relating to the killing of game and catching of fish, was taken up and lost by the following vote :

*Ayes*—Messrs. Aiken, Alger, Brown, Chessman, Curtis, Dean, Emerson, Ezekiel, Harrington, Kerley, Sutton and Mr. Speaker—12.

*Nays* — Messrs. Carmichael, Coleman, Dusold, Hartwell, Heldt, Kennedy, Mallory, Mead, McCauley, O'Keefe, Sanders, Stafford and Tate—13.

Communication from Council, through their Chief Clerk, A. M. S. Carpenter, announcing that Mr. Newcomer had given notice of a bill relating to stage companies carrying passengers.

That the following bills had passed the Council :

C. B. No. 25, to amend section 7 of chapter 85 of general laws of Montana, concerning revenue.

C. B. No. 31, entitling litigants to attorney fees in certain cases.

C. B. No. 33, authorizing Territorial Treasurer to issue bonds.

C. B. No. 37, regulating county commissioners' fees.

Also, that H. C. R. No. 4 had been amended.

That Mr. Garrigan had introduced C. B. No. 48, to repeal the estray law.

That C. B. No. 35, concerning fires and firemen, had passed the Council.

On motion of Mr. Sanders, the vote by which the substitute for H. B. No. 14 was lost was re-considered, and bill made a special order for Friday, 2 o'clock p. m.

H. B. No. 44, An Act to prescribe the duties of the clerks of the supreme court of Montana Territory, was taken up, read third time, and on motion of Mr. Ezekiel, made the special order for Friday, 2 o'clock p. m.

H. B. No. 52, a bill for an act to repeal section 2, of chapter 27, of an act revising, re-enacting, and codifying the general laws of Montana Territory, was taken up, read third time, and passed by the following vote :

*Ayes*—Messrs. Aiken, Alger, Brown, Carmichael, Chessman, Coleman, Curtis, Dean, Dusold, Emerson, Ezekiel Hartwell,

Harrington, Heldt, Kennedy, Kerley, Mallory, Mead, McCauley, O'Keefe, Sanders, Stafford, Sutton, Tate, and Mr. Speaker—25.

*Nays*—none.

Title agreed to.

H. B. No. 35, a bill to enforce the better observance of the first day of the week, commonly called Sunday, was taken up, read third time, and on motion of Mr. Ezekiel, was indefinitely postponed by the following vote :

*Ayes*—Messrs. Alger, Brown, Carmichael, Curtis, Dean, Dusold, Ezekiel, Harrington, Kennedy, Kerley, McCauley, O'Keefe, Stafford, Sutton, and Mr. Speaker—15.

*Nays*—Messrs. Aiken, Chessman, Coleman, Emerson, Hartwell, Heldt, Mallory, Mead, Sanders, and Tate—10.

A motion to reconsider the vote by which H. B. No. 35 was lost, and lay on the table, was lost by the following vote :

*Ayes*—Messrs. Brown, Carmichael, Curtis, Dean, Dusold, Ezekiel, Harrington, Kerley, Stafford, Sutton, and Mr. Speaker—11.

*Noes*—Messrs. Aiken, Alger, Chessman, Coleman, Emerson, Hartwell, Heldt, Kennedy, Mallory, Mead, McCauley, O'Keefe, Sanders, and Tate—14.

H. B. No. 27, A bill to amend sections 138, 243, and 249 of the civil practice act was taken up, read third time, and on motion of Mr. Ezekiel, was indefinitely postponed.

H. B. No. 38, a bill for an act to provide for the appointment of deputy clerks of the supreme court and district courts of Montana Territory, was taken up, read third time, and on motion of Mr. Ezekiel, was indefinitely postponed.

H. C. R. No. 1, being the special order, was taken up, amended by inserting "30th," in lieu of "26th," and ordered engrossed.

H. J. R. No. 1 was taken up, read third time, and passed by the following vote :

*Ayes*—Messrs. Aiken, Brown, Carmichael, Chessman, Coleman, Curtis, Dusold, Emerson, Ezekiel, Hartwell, Harrington, Kennedy, Kerley, Mallory, Mead, McCauley, O'Keefe, Stafford, Sutton, and Mr. Speaker—20.

*Noes*—Messrs. Heldt, Sanders, and Tate—3.

*Absent*—Messrs. Alger and Dean—2.

On motion of Mr. Ezekiel, the rules were suspended, and reports from standing committees were declared in order.

The majority report of Committee on Territorial Affairs reported back H. B. No. 11, recommending it do pass. A minority report of same committee, recommending the bill do not pass, was received. On motion of Mr. Ezekiel, the majority report was adopted.

Mr. Kerley, from Committee on Printing, reported H. B. No. 48 correctly printed.

By leave, H. B. No. 11 was amended, and with amendment ordered engrossed.

H. C. R. No. 4 was taken up. There being no amendment with the resolution, as reported from the Council, the clerk was ordered to return the same to the Council with a statement to that effect.

H. B. No. 48 was taken up and read second time, and on motion of Mr. Ezekiel, referred to a Committee of the Whole House.

House resolved itself into a Committee of the Whole to consider H. B. No. 48.

House resumed—Mr. Speaker in the chair.

On motion of Mr. Brown, House adjourned until 10 o'clock A. M. to-morrow.

J. H. ROGERS,  
*Speaker of House of Representatives.*

W. W. CHAPMAN, *Chief Clerk.*

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## ELEVENTH DAY.

APRIL 24, 1873.

House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—quorum present.

Absent—Mr. Carmichael.

Journal of preceding day read and approved.

Substitute for H. B. No. 14, being the special order, was taken up, read for information, and by leave, Mr. Alger amended by striking out all of section 11, and inserting in lieu thereof the words, "An Act relating to the killing of game and the catching of fish," approved January 2, 1872. Further amended by Mr. Alger, by inserting after the figures "1872," the words, "be and the same is hereby repealed." Further amended by Mr. O'Keefe, by adding to section 10 the following words: "Provided, Missoula county be exempt from the operations of this act."

Amendment adopted, and ordered engrossed.



Mr. Harrington, from Committee on Territorial Affairs, reported back H. B. No. 56, recommending its passage.

Received and adopted.

Mr. Coleman, from Committee on Judiciary, reported back H. B. No. 13, with amendment as follows; Insert the words "at common law," after the words "civil actions."

Adopted, and ordered engrossed.

Also, H. B. No. 8, recommending it do pass.

Report received and adopted.

Mr. Sutton, from Committee on Finance, reported back H. B. No. 24, recommending it do not pass.

Also, C. J. R. No. 1, recommending it do pass.

By leave—On motion of Mr. Sanders, H. B. No. 24 was re-committed to the Judiciary Committee.

Mr. Ezekiel, Chairman from the Committee of the Whole House, reported back H. B. No. 48, recommending it do pass.

Mr. Kennedy, from select committee composed of the members from Missoula county, reported back C. B. No. 30, recommending the bill do pass.

Mr. Heldt, from Committee on Engrossment, reported H. C. R. No. 1 correctly engrossed.

Mr. Emerson gave notice of the introduction of a bill for An Act to remove the Penitentiary from Deer Lodge City to the Hot Springs, in Jefferson county.

Mr. Emerson offered the following resolution :

*Resolved*, That this House regards the attack upon one of the members thereof in the morning paper, as a breach of pro-

priety, and the intimation therein, that his vote was influenced or controlled by mercenary or unworthy motives, without justification.

Mr. Rogers offered the following amendment:

Insert after the word "motives" and before the word "without" the words "in our judgment."

Adopted.

Mr. Coleman moved to amend by striking out the words "as a breach of propriety."

Lost.

Mr. Rogers moved to amend by striking out all after the word "Resolved," and inserting in lieu thereof the following: "That in view of the attack upon Mr. Mallory, one of the members of this House, in a morning paper this House expresses its fullest confidence in the integrity of Mr. Mallory, and especially in the matter concerning which his integrity was impugned," which was adopted by the following vote:

*Ayes*—Messrs. Aiken, Alger, Brown, Carmichael, Chessman, Coleman, Curtis, Dean, Dusold, Emerson, Ezekiel, Hartwell, Harrington, Heldt, Kennedy, Kerley, Mead, McCauley, O'Keefe, Sanders, Stafford, Sutton, Tate and Mr. Speaker—24.

*Nays*—None.

H. B. No. 57, a bill for an act authorizing certain counties in Montana Territory to foster internal improvements, by subscribing to the capital stock of a railroad company, was introduced by Mr. Sanders. Read first and second times and ordered printed.

H. B. No. 58, for an act to amend sections 3 and 4 of an act entitled An Act relating to county commissioners, approved January 9, 1872, was introduced by Mr. Alger. Read first and second times, and ordered engrossed.

H. B. No. 59, for An Act to amend certain sections of an act entitled An Act concerning crimes and punishments, approved January 12, 1872, was introduced by Mr. Coleman. Read first and second times, and referred to Committee on Judiciary.

H. B. No. 60: Introduced by Mr. Coleman, for An Act to amend section 22, of chapter 41, of an act entitled An Act revising, re-enacting and codifying the general and permanent laws of Montana Territory, was read first and second times, and referred to Judiciary Committee.

H. B. No. 61: Introduced by Mr. Coleman, for an act to amend section 202 of an act entitled An Act to regulate proceedings in courts of justice in the Territory of Montana. Read first and second times, and referred to Judiciary Committee.

H. B. No. 62: Introduced by Mr. Coleman, for An Act to amend section 41, of an act entitled An Act regulating proceedings in civil cases in courts of justice of the Territory of Montana. Read first and second times, and referred to Judiciary Committee.

Mr. Sutton, from Finance Committee, reported back C. J. R. No. 1, recommending its passage.

On motion of Mr. Coleman, House took a recess till 2 o'clock P. M.

2 O'CLOCK P. M.—House resumed. Mr. Speaker in the chair.

Roll called—quorum present.

H. B. No. 16 and C. B. No. 23, being the special order, were read for information.

Mr. Brown called to the Chair.

Mr. Rogers moved to amend H. B. No. 16 by striking out all of sections 1 and 2, and inserting, in lieu thereof, the following: "That an act entitled An Act to divide the counties of this Territory into revenue districts and provide for the election of officers therein, be amended so that line 4 in section 1 shall read, 'not less than one nor more than ten revenue districts,' and that this act shall take effect and be in force from and after its passage.

The ayes and nays being called, resulted as follows :

*Ayes*—Messrs. Aiken, Alger, Carmichael, Coleman, Curtis, Emerson, Ezekiel, Hartwell, Harrington, Heldt, Kennedy, Kerley, Mallory McCauley, Sutton, Tate and Mr. Speaker—17.

*Nays*—Messrs. Brown, Chessman, Dean, Dusold, Mead, O'Keefe, Sanders and Stafford—8.

Amendments adopted and ordered engrossed.

Mr. Coleman moved to amend C. B. No. 23 by striking out section 2, and inserting the following as section 2: "This act shall not affect the acts of county assessors in counties where they have assessed or have commenced assessing the property in their respective counties, but when such assessment has been made, by such assessors, it shall be valid, and where they have commenced such assessment they may complete the same and it shall be a valid assessment."

Adopted and ordered engrossed.

Mr. Sanders moved to amend by striking out, in section 1, the following words: "On page 455 of the codified statutes of Montana;" and insert in lieu thereof the following: "Of chapter 21 of an act entitled 'An Act revising, re-enacting, and codifying the general and permanent laws of Montana Territory,' approved January 12th, 1872."

Amendment adopted, and ordered engrossed.

Communication from the Council, through their chief clerk, A. M. S. Carpenter, announcing that the following notices of bills had been given in the Council:

By Mr. Newcomer: Of a bill in relation to the trial of certain criminal cases.

By Mr. Lawrence: Of a bill declaring members of the Council and House of Representatives ineligible for territorial, county, or township offices.

That the following bills had passed the Council:

C. B. No. 22, supreme court clerk's fee bill.

H. B. No. 2, to amend law concerning crimes and punishments.

And that H. C. R. No. 5 had been rejected by the Council.

Mr. Kerley, from Committee on Printing, reported C. B. No. 36 and H. Bs. Nos. 47, 49, 50, 51, and 42 correctly printed.

H. B. No. 24, for an act amendatory of an act entitled "Counties and County Officers," was taken up, read third time, and, on motion of Mr. Coleman, was indefinitely postponed.

H. B. No. 48, an act to establish and regulate the fees of sheriffs in Montana Territory, was taken up, and, on motion of Mr. Stafford, was amended by striking out all of section 2, and inserting in lieu thereof the following: "That so much

of chapter 19 of an act entitled 'An Act revising, re-enacting, and codifying the general and permanent laws of Montana Territory,' approved January 12th, 1872, as relates to the fees of sheriffs, and all other acts and parts of acts relating to fees of sheriffs, be, and the same is hereby, repealed."

On motion of Mr. Kerley, the rules were suspended, and amendment considered engrossed.

Mr. Sanders moved to recommit to a select committee of one, with instruction to report amendments; which was lost by the following vote:

*Ayes*—Messrs. Chessman, Hartwell, Heldt, and Sanders—4.

*Nays*—Messrs. Aiken, Alger, Brown, Carmichael, Coleman, Curtis, Dean, Dusold, Emerson, Ezekiel, Harrington, Kennedy, Kerley, Mallory, Mead, McCauley, O'Keefe, Stafford, Sutton, Tate, and Mr. Speaker—21.

On motion of Mr. Ezekiel, the rules were suspended, bill read third time by its title, and passed by the following vote:

*Ayes*—Messrs. Aiken, Alger, Brown, Carmichael, Coleman, Curtis, Dean, Dusold, Emerson, Ezekiel, Hartwell, Harrington, Heldt, Kennedy, Kerley, Mallory, Mead, McCauley, O'Keefe, Sanders, Stafford, Sutton, Tate, and Mr. Speaker—24.

*Nays*—Mr. Chessman—1.

Title agreed to.

Mr. Heldt, from Committee on Engrossment, reported H. Bs. Nos. 11 and 54, as amended, correctly engrossed.

H. B. No. 11, an act to repeal an act entitled "An Act to provide for the forfeiture to the territory of placer mines held by aliens," read third time, and, on the question, "Shall the bill pass?" the ayes and nays being called, resulted as follows:



*Ayes*—Messrs. Aiken, Brown, Carmichael, Chessman, Coleman, Curtis, Dean, Dusold, Emerson, Ezekiel, Hartwell, Heldt, Kerley, Mallory, Mead, McCauley, O'Keefe, Sanders, Stafford, Sutton, Tate, and Mr. Speaker—22.

*Nays*—Messrs. Harrington and Kennedy—2.

Absent—Mr. Alger—1.

Bill passed. Title agreed to.

H. B. No. 47, an act to establish and regulate the fees of witnesses, jurors, and certain officers in Montana Territory, read second time.

Mr. Sanders moved the House to go into Committee of the Whole to consider the bill. Lost.

Ordered engrossed.

H. B. No. 49, an act to establish and regulate the fees of assessors, coroners, and other officers in the Territory of Montana, read second time, and ordered engrossed.

H. B. No. 51 was taken up, read second time, and ordered engrossed.

C. J. R. No. 1, for the relief of L. M. Todd, was taken up, read third time, and passed by the following vote:

*Ayes*—Messrs. Aiken, Brown, Carmichael, Chessman, Coleman, Curtis, Dean, Dusold, Ezekiel, Hartwell, Harrington, Heldt, Kennedy, Kerley, Mallory, Mead, McCauley, O'Keefe, Sanders, Stafford, Sutton, Tate, and Mr. Speaker—23.

*Nays*—None.

Absent—Messrs. Alger and Emerson—2.

H. B. No. 54, an act to prevent parties from shooting within the limits of towns and private enclosures, read third time, and, on the question, "Shall the bill pass?" the ayes and nays being called, resulted as follows:

*Ayes*—Messrs. Aiken, Alger, Brown, Chessman, Coleman, Curtis, Dean, Dusold, Emerson, Ezekiel, Hartwell, Harrington, Kennedy, Kerley, Mallory, Mead, McCauley, O'Keefe, and Sutton—19.

*Nays*—Messrs. Carmichael, Heldt, Sanders, Stafford, Tate, and Mr. Speaker—6.

Bill passed. Title agreed to.

H. C. R. No. 1, adjourning this House on the 30th of April, at 5 o'clock P. M., was taken up, and passed by the following vote :

*Ayes*—Messrs. Aiken, Alger, Brown, Chessman, Coleman, Curtis, Dean, Dusold, Emerson, Harrington, Heldt, Kennedy, Kerley, Mallory, McCauley, Sutton, Tate, and Mr. Speaker—18.

*Nays*—Messrs. Ezekiel, Hartwell, Mead, O'Keefe, Sanders, and Stafford—6.

Absent—Mr. Carmichael—1.

On motion of Mr. O'Keefe, House adjourned until ten o'clock A. M. to-morrow.

J. H. ROGERS,

*Speaker of the House of Representatives.*

W. W. CHAPMAN, *Chief Clerk.*

## TWELFTH DAY.

APRIL 25, 1873.

House met pursuant to adjournment—Mr. Speaker in the chair.

Roll called—quorum present.

Journal of preceding day read, corrected, and approved.

Mr. Alger, from Committee on Enrollment, reported H. B. No. 2 correctly enrolled.

The Speaker announced that he had signed H. B. No. 2.

Communication from the Governor, through his private secretary, Charles H. St. Clair :

TERRITORY OF MONTANA, }  
EXECUTIVE DEPARTMENT, }  
VIRGINIA CITY, April 25, 1873. }

*To the Legislative Assembly :*

Information has been received by this Department that the proper authorities of the United States have directed the United States Marshal of this territory to transfer the possession of the United States penitentiary at Deer Lodge city to the territory, and the executive has been requested to take formal possession of the same at once.

The legislative assembly is respectfully requested to provide by law for the maintenance and government of the prison at the earliest practicable day.

Respectfully,

B. F. POTTS, *Governor.*

Mr. Alger, from Committee on Enrollment, reported that he had handed H. B. No. 2 to the Governor for his approval at 10:55 A. M.

Mr. Coleman, from Judiciary Committee, reported back H. B. No. 8, with a substitute; also, H. B. No. 60, recommending amendment, and that, as amended, the bill do pass; also, C. B. No. 21, submitting a substitute therefor, recommending its passage; also, H. B. No. 61, recommending its passage.

Without previous notice, Mr. Ezekiel, by leave, introduced H. B. No. 9, a substitute for one of the same number and substance, reported lost.

H. B. No. 9, for an act to authorize the territorial auditor to perform certain duties, and to repeal certain acts, read first and second times, and referred to Committee on Finance, with instructions to report on or before 11 o'clock A. M., Wednesday.

H. C. R. No. 6, introduced by Mr. O'Keefe:

*Resolved by the House, the Council concurring,* That our delegate in congress be requested to use all honorable means to get an appropriation of seventy-five thousand dollars for improving the Mullen road from Fort Benton to Missoula.

Read first and second times, and referred to Committee on Territorial Affairs.

H. J. M. No. 1, introduced by Mr. Sanders, asking congress for the establishment of an assay office in Montana Territory, read first and second times, and, on motion of Mr. Ezekiel, the rules were suspended, read third time by its title, and passed by the following vote:

*Ayes*—Messrs. Aiken, Brown, Carmichael, Chessman, Coleman, Curtis, Dean, Dusold, Emerson, Ezekiel, Hartwell, Harrington, Heldt, Kennedy, Kerley, Mallory, Mead, McCauley, O'Keefe, Sanders, Stafford, Sutton, Tate, and Mr. Speaker—24.

Absent—Mr. Alger—1.

Title agreed to.

Mr. Kerley, from Committee on Printing, reported H. B. No. 50 incorrectly printed.

H. B. No. 56 was taken up, read third time, and, on motion of Mr. Coieman, made the special order for Saturday, at 3 o'clock P. M.

C. B. No. 25, introduced by Mr. Garrigan, an act to amend section 7 of chapter 85 of the general and miscellaneous laws, concerning revenue, was taken up, read first and second times, and referred to Committee on Finance, with instructions to report on or before 11 o'clock, Monday.

C. B. No. 33, introduced by Mr. Bullock, an act authorizing the territorial treasurer to issue bonds, read first and second times, and referred to Committee on Finance.

C. B. No. 37, introduced by Joint Committee on Fees, for an act to amend an act entitled "An Act revising, re-enacting, and codifying the general and permanent laws of Montana Territory," approved January 12, 1872, was taken up, read first and second times.

Mr. Stafford called to the chair.

On motion of Mr. Rogers, House took a recess until 2 o'clock P. M.

2 O'CLOCK P. M.—House resumed—Mr. Speaker in the chair.

Roll called—quorum present.

At 2:10 P. M., the following communication was received from the Governor, through his private secretary, Charles H. St. Clair:

TERRITORY OF MONTANA, }  
EXECUTIVE DEPARTMENT, }  
VIRGINIA CITY, April 25, 1873. }

*To the House of Representatives:*

House Bill No. 2, entitled "An Act to amend section 1 of chapter 23 of the act revising, re-enacting, and codifying the general and permanent laws of Montana Territory," approved January 12, 1872, is returned to the House of Representatives without the executive approval. If this course is pursued by the legislature, of inserting a few words in a section of the present law, without copying the section of the old law, inserting therein the desired amendment, and repealing the old section, the labor of the present session will be more uncertain than that of the last.

This bill can only add confusion and uncertainty to the present laws. The amendment proposed may reasonably raise the question, as to whether all of section 1, after what is proposed, is not repealed by amendment. Clearness and perspicuity in framing amendments are the most important qualifications that a legislator can possess.

With our present experience with ambiguous statutes, we should not repeat the blunders of the last session, when they are so fresh in our minds.

My objection is to the form, and not to the substance of the bill.

Respectfully,

B. F. POTTS, *Governor.*

On motion of Mr. Sanders, the further consideration of H. B. No. 2 was made the special order for to-morrow at 11 o'clock A. M.



H. Bs. Nos. 18, 44, 30, 26, 31, 39 and 45, being the special order, on motion of Mr. Stafford, were made the special order for Monday at 11 o'clock A. M.

The further consideration of C. B. No. 37 being in order, was taken up. A motion by Mr. Coleman to amend by striking out the words "in attending," in section 1, and inserting in lieu thereof the words, "while sitting at."

Amendment adopted.

Further amended, on motion of Mr. Sanders, by striking out the words "on page 435 of the printed Statutes of 1871-2 as codified," in section 1, where they occur, and inserting in lieu thereof the following: "Of An Act revising, re-enacting and codifying the general and permanent laws of Montana Territory, approved January 12, 1872."

Further amended by Mr. Sanders, by striking out the word "of" before "ten," in same section, and inserting in lieu thereof the words "not exceeding."

Amendments ordered engrossed.

Substitute for C. B. No. 22, for An Act to establish and regulate the fees of the clerk of the Supreme Court. Read first and second times, and referred to Judiciary Committee.

C. B. No. 49: An Act to establish and regulate the fees of county clerk and recorder. Read first and second times, and on motion of Mr. Ezekiel, the rules were suspended, the bill considered engrossed, read third time, and passed by the following vote:

*Ayes*—Messrs. Aiken, Alger, Brown, Carmichael, Chessman, Coleman, Curtis, Dean, Dusold, Emerson, Ezekiel, Hartwell, Harrington, Heldt, Kennedy, Kerley Mallory, Mead, McCauley, O'Keefe, Stafford, Sutton, Tate and Mr. Speaker—

*Nays*—Mr. Sanders—1.

Title agreed to.

C. B. No. 56: An Act to establish and regulate the fees of the clerk of the district court, was taken up, and on motion of Mr. Coleman, the rules were suspended, read third time, and passed by the following vote:

*Ayes*—Messrs. Aiken, Alger, Brown, Carmichael, Chessman, Coleman, Curtis, Dean, Dusold, Emerson, Ezekiel, Hartwell, Harrington, Heldt, Kennedy, Kerley, Mallory, Mead, McCauley, O'Keefe, Sanders, Stafford, Sutton, Tate and Mr. Speaker—25.

*Nays*—None.

Title agreed to.

C. B. No. 30: An Act amending an act entitled An Act authorizing the county commissioners of Missoula county to levy a special tax. Read third time, and passed by the following vote:

*Ayes*—Messrs. Aiken, Alger, Brown, Carmichael, Chessman, Coleman, Curtis, Dean, Dusold, Emerson, Ezekiel, Hartwell, Harrington, Heldt, Kennedy, Kerley, Mallory, Mead, McCauley, Stafford, Sutton, Tate and Mr. Speaker—23.

*Nays*—Messrs. O'Keefe and Sanders—2.

Title agreed to.

C. B. No. 31: An Act entitling litigants to attorney's fees in certain cases. Read first time, and on motion of Mr. Coleman, was indefinitely postponed.

Communication from Council through their Chief Clerk, A. M. S. Carpenter, announcing that the following bills had been introduced:

By Mr. Newcomer: C. B. No. 50, to regulate stage fares.

Also, C. B. No. 51, relating to the trial of criminals for certain offences.

By Lawrence: C. B. No. 52, to make members of legislative assemblies ineligible to a any territorial, county or township offices.

That the Council had receded from its amendment to the title of H. C. R. No. 4, and have agreed to the original title.

Also, that the Clerk of the Council be instructed to return H. B. No. 28 to the House for a correction of its history.

That H. B. No. 48, sheriffs' fee bill, had passed the Council.

That H. B. No. 54, to prohibit shooting within towns and private enclosures, had passed the Council.

Also, that C. B. 43, to amend practice act, C. B. No. 47, to provide for the safety of persons attending public assemblies, and C. B. No. 48, to repeal estray law, have passed the Council.

That H. B. No. 4, and H. B. No. 40, were lost in the Council.

C. B. No. 35: An act concerning fires and firemen, was taken up, read first and second times, and, on motion of Mr. Dusold, was amended by striking out section 9, and numbering 10 as 9, 11 as 10, and 12 as 11.

Further amended: On motion of Mr. Sanders, by striking out words "or road," where they occur in section 3.

Mr. Sanders moved a suspension of the rules.

A call of the House was made.

Absent—Mr. Alger.

Sergeant-at-Arms ordered to bring in absentee.

A motion to suspend the call of the House was lost.

Mr. Sanders moved that a call of the House be dispensed with.

Carried.

Sergeant-at-Arms reported Mr. Alger in his seat.

The previous question being called, was carried.

Rules were suspended.

Mr. Sanders moved that the bill be considered engrossed, read third time, and put upon its final passage.

Carried.

Bill read third time and passed by the following vote :

*Ayes*—Messrs. Aiken, Alger, Brown, Chessman, Curtis, Dusold, Emerson, Hartwell, Harrington, Heldt, Kennedy, Kerley, Mallory, Mead, McCauley, O'Keefe, Sanders, Sutton, and Mr. Speaker—19.

*Nays*—Messrs. Carmichael, Coleman, Dean, Ezekiel, Stafford, and Tate—6.

Title agreed to.

On motion of Mr. O'Keefe, House adjourned until 10 o'clock A. M. to-morrow.

J. H. ROGERS,

*Speaker of House of Representatives.*

W. W. CHAPMAN, *Chief Clerk.*

## THIRTEENTH DAY.

APRIL 26, 1873.

House met pursuant to adjournment. Mr. Speaker in Chair.

Roll called—quorum present.

Journal of previous day read and approved.

Mr. Speaker presented a petition signed by James O'Donnell and fifty-two other citizens of Deer Lodge county, praying the repeal of the Alien Law, received, and, on motion of Mr. Kerley, the clerk was instructed to transmit the same to the Council, immediately.

Mr. Heldt, from Committee on Engrossment, reported H. Bs. Nos. 41, 51, 55, and 58, and, as amended, H. B. No. 16, and amendment to C. B. No. 23, correctly engrossed.

Mr. Alger, from Joint Committee on Enrollment, reported H. C. R. No. 4, and H. Bs. Nos. 48 and 54, correctly enrolled

The Speaker announced to the House that he had signed C. J. R. No. 1, H. C. R. No. 4, and H. Bs. Nos. 48 and 54.

Mr. Harrington, from Committee on Territorial Affairs, reported back H. C. R. No. 6, recommending its passage.

Mr. Coleman, from Judiciary Committee, reported back C. B. No. 10, with amendments, recommending the passage of the bill as amended.

Mr. Mead, from Committee on Elections, reported back H. B. No. 1, with a substitute, recommending the passage of the substitute.

H. J. M. No. 2: Introduced by Mr. Sanders, asking Congress for additional clerical force in Territorial Legislative Assemblies. Read first and second times, and ordered engrossed.

The Speaker announced that he had signed C. J. R. No. 1, for the relief of L. M. Todd.

H. B. No. 61 was taken up, read third time, and, on motion of Mr. Carmichael, the rules were suspended, and the bill recommitted to Judiciary Committee.

Mr. Alger, from Committee on Enrollment, reported that he had handed H. C. R. No. 4, and H. Bs. Nos. 48 and 54 to the Governor, for his approval, at 10:55 A. M.

H. B. No. 10 was taken up, read third time, and, on motion of Mr. Ezekiel, rules suspended, and bill recommitted to Committee on Judiciary.

H. substitute for H. B. No. 8, and, on motion of Mr. Coleman, was adopted.

On motion of Mr. Ezekiel, the rules were suspended, bill considered engrossed, read third time, and passed by the following vote:

*Ayes*—Messrs. Alger, Aiken, Brown, Carmichael, Chessman, Coleman, Curtis, Dean, Dusold, Ezekiel, Hartwell, Harrington, Kennedy, Kerley, Mallory, Mead, O'Keefe, Sanders, Stafford, Sutton, Tate, and Mr. Speaker—22.

*Nays*—Messrs. Heldt and McCauley—2.

Absent—Mr. Emerson—1.

Title amended and agreed to.

H. B. No. 2 being the special order, was taken up, the objections of the Governor read.

Mr. Ezekiel moved to reconsider the vote by which H. B. No. 2 was passed, was carried, and on the question "Shall the bill pass, the objections of the Governor to the contrary, notwithstanding?" resulted as follows:

*Ayes* — Messrs. Aiken, Alger, Coleman, Curtis, Dean, Dunsold, Emerson, Ezekiel, Harrington, Kennedy, Kerley, Mead, McCauley, O'Keefe, Sanders, Stafford, Sutton, Tate, and Mr. Speaker—19.

*Nays* — Messrs. Brown, Carmichael, Chessman, Hartwell, Heldt, and Mallory—6.

Being more than two-thirds of all the members voting aye, the Speaker declared the bill passed.

Communication from the Governor, through his private secretary, C. H. S. Clair.

TERRITORY OF MONTANA,  
EXECUTIVE DEPARTMENT,  
APRIL 26, 1873. }

*To the House of Representatives:*

I have the honor to inform the House of Representatives that I have this day approved H. B. No. 54, entitled, An Act to prevent parties from shooting within the limits of towns and private enclosures. Also, H. C. R. No. 4, without title.

Respectfully,

B. F. POTTS.

H. B. No. 50 was taken up, read second time, and, on motion of Mr. Ezekiel, was amended by adding after the word "appropriated," in last line of first page the words "one thousand dollars."

Mr. Chessman called to the chair.

On motion of Mr. Sanders, was further amended by inserting the word "civil," before the word "cases," in twenty-second line on first page.



On motion of Mr. Curtis, House took a recess until 2 o'clock P. M.

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2 o'clock, P. M.—House resumed. Mr. Speaker in the chair.

Roll called—quorum present.

H. B. No. 50 being in order, was ordered engrossed.

H. B. No. 41, an act making an appropriation for printing the reports of the auditor and treasurer for the eighth fiscal year, made to the Governor, December 1st, 1872, was read third time, and on the question "Shall the bill pass?" the ayes and nays being called, resulted as follows:

*Ayes*—Messrs. Aiken, Alger, Brown, Carmichael, Chessman, Curtis, Dean, Dusold, Emerson, Ezekiel, Hartwell, Harrington, Heldt, Kennedy, Kerley, Mallory, Mead, McCauley, O'Keefe, Sanders, Stafford, Sutton, Tate and Mr. Speaker—24.

*Nays*—None.

Absent—Mr. Coleman.

Bill passed, title agreed to.

H. B. No. 16, an act to repeal article 8 of chapter 21 of the codified laws, read third time and passed by the following vote:

*Ayes*—Messrs. Aiken, Alger, Brown, Carmichael, Chessman, Coleman, Curtis, Dean, Dusold, Emerson, Ezekiel, Hartwell, Harrington, Heldt, Kennedy, Kerley, Mallory, Mead, McCauley, O'Keefe, Sanders, Stafford, Sutton, Tate and Mr. Speaker—25.

*Nays*—None.

On motion of Mr. Sanders, the title was amended and agreed to.

Mr. Kerley, from Committee on Printing, reported H. B. No. 57 incorrectly printed in some particulars.

H. B. No. 51, an act to define the word "Folio," when used in act relating to regulation of fees, read third time and passed by the following vote :

*Ayes*—Messrs. Aiken, Alger, Brown, Carmichael, Chessman, Coleman, Curtis, Dean, Dusold, Emerson, Ezekiel, Hartwell, Harrington, Heldt, Kennedy, Kerley, Mallory, Mead, McCauley, O'Keefe, Sanders, Stafford, Sutton, Tate and Mr. Speaker—25.

*Nays*—None.

H. B. No. 58, an act to amend sections 3 and 4 of an act entitled An Act relating to county commissioners, approved January 9, 1872, on page 569-570, read third time, and, on motion of Mr. Sanders, was indefinitely postponed.

H. substitute for C. B. No. 21, for an act to amend an act revising, re-enacting and codifying the statutes of Montana, regulating appeals from the probate to the district courts, read third time, and, on motion of Mr. Sanders, was indefinitely postponed.

C. B. No. 47, an act to provide for the safety of persons attending public assemblies, was taken up, read first time, and, on motion of Mr. Coleman, was indefinitely postponed.

H. B. No. 42 was taken up, and, on motion of Mr. Sanders, was made special order for Monday, 2 o'clock, P. M., in Committee of the Whole.

C. B. No. 43, introduced by Mr. Lawrence, an act to amend section 6 of the criminal practice act, was taken up, read first and second times and referred to Committee on Judiciary.

C. B. No. 48, introduced by Mr. Garrigan, an act to repeal an act concerning estrays and lost goods, was read first and second times and referred to Committee on Territorial Affairs.

On motion of Mr. Sanders, C. B. No. 10 was recommitted to Judiciary Committee.

H. B. No. 57 was taken up, and, on motion of Mr. Carmichael, was made the special order for Wednesday, 2 o'clock P. M., in Committee of the Whole.

H. B. No. 56 was taken up, and, on motion of Mr. Coleman, was made the special order for Monday, 11 o'clock A. M.

Mr. Sanders, from Committee on Judiciary, reported back C. B. No. 10 with amendments, recommending the bill, as amended, do pass.

On motion of Mr. Coleman the amendment was adopted.

On motion of Mr. Coleman, the rules were suspended, bill considered engrossed, read third time and passed by the following vote :

*Ayes* — Messrs. Aiken, Alger, Brown, Carmichael, Chessman, Coleman, Curtis, Dean, Dusold, Emerson, Ezekiel, Hartwell, Harrington, Heldt, Kennedy, Mallory, Mead, McCauley, O'Keefe, Sanders, Stafford, Tate, and Mr. Speaker—23.

*Nays*—None.

Absent—Messrs. Kerley and Sutton—2.

On motion of Mr. Sanders the title was amended and agreed to.

Mr. Heldt, from Committee on Engrossment, reported H. Bills Nos. 47 and 44 correctly engrossed.

H. B. No. 14, an act amendatory of an act entitled An Act

relating to the killing of game and catching of fish, read third time and passed by the following vote :

*Ayes*—Messrs. Aiken, Alger, Brown, Chessman, Curtis, Dean, Dusold, Emerson, Hartwell, Harrington, Kerley, Mead, Sanders, Sutton and Mr. Speaker—15.

*Nays*—Messrs. Carmichael, Coleman, Ezekiel, Heldt, Kennedy, Mallory, McCauley, O'Keefe, Stafford and Tate—10.

Title agreed to.

Mr. Kerley, from Committee on Printing, reported H. B. No. 14 correctly printed and H. Bills Nos. 44 and 45 incorrectly printed.

H. B. No. 47, an act to establish and regulate the fees of witnesses, jurors, and certain officers in Montana Territory, was taken up, read third time, and passed by the following vote :

*Ayes*—Messrs. Aiken, Alger, Brown, Carmichael, Chessman, Coleman, Curtis, Dean, Dusold, Emerson, Ezekiel, Hartwell, Harrington, Heldt, Kennedy, Kerley, Mallory, Mead, McCauley, O'Keefe, Sanders, Stafford, Sutton, Tate and Mr. Speaker—25.

*Nays*—None.

Title agreed to.

Communication from the Council through Chief Clerk, A. M. S. Carpenter, announcing that C. B. No. 57, providing for the payment of certain moneys by the treasurer of Lewis and Clark county to the treasurer of the Helena fire department, had passed the Council.

Also, that H. B. No. 2 had passed the Council notwithstanding the Governor's objections thereto.

H. B. No. 49 was taken up, read third time, and by leave, on motion of Mr. Coleman, was amended by inserting, after words "deemed just," the words, "and the above officers shall receive no other compensation than as above specified."

Ordered engrossed.

C. B. No. 14 was taken up and read third time.

On motion of Mr. Emerson, House adjourned until 10 o'clock A. M. Monday.

J. H. ROGERS,  
*Speaker House of Representatives.*

W. W. CHAPMAN, *Chief Clerk.*

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## FIFTEENTH DAY.

APRIL 28, 1873.

House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—quorum present.

Absent—Mr. Alger.

Journal of Saturday read and approved.

H. Bills Nos. 18, 26, 30, 31, 39 and 45 being the special order, were taken up, and on motion of Mr. Ezekiel, were made the special order for Wednesday at 11 o'clock A. M.

Communication from the Council through Chief Clerk, A.

M. S. Carpenter, announcing that the following Bills had passed the Council :

C. B. No. 9, to amend school law.

C. B. No. 50, to regulate stage fares.

C. B. No. 51, relating to the trials of criminals for certain offenses.

That Mr. Lawrence had introduced C. B. No. 53, to amend section 137 of an act relating to administrators and executors.

That Mr. Beck had introduced C. B. No. 54, to encourage industrial pursuits in Montana Territory.

Also : C. B. No. 55, to repeal section 58 of an act concerning crimes and punishments.

Also : C. B. No. 56, in relation to the payment of fees.

By Mr. Beck, C. B. No. 58, requiring territorial and county officers to record their official bonds.

That H. B. No. 33 and H. B. No. 8 have passed the Council

That H. B. No. 32 had passed the Council with amendments.

And that H. J. Memorial No. 1 had passed the Council with title amended.

H. B. No. 44, an act to prescribe the duties of the Clerk of the supreme court of the Territory of Montana, being the special order, was taken up, and on motion of Mr. Coleman, was indefinitely postponed.

Mr. Heldt, from Committee on Engrossment, reported H. B. No. 13 correctly engrossed.

Mr. Alger, from Joint Committee on Enrollment, reported that C. Bills Nos. 30, 35 and 49 were correctly enrolled.

Mr. Mead, from Committee on Elections, reported back C. B. No. 1, recommending it do not pass.

Mr. Harrington, from Committee on Territorial Affairs, reported back, C. B. No. 48, recommending its passage.

Mr. Coleman, from Committee on Judiciary, reported back H. B. No. 61, with substitute, recommending its passage.

Communication from the Governor, through his private secretary, C. H. St. Clair.

TERRITORY OF MONTANA,  
EXECUTIVE DEPARTMENT,  
VIRGINIA CITY, April 28, 1873. }

*To the House of Representatives :*

I have the honor to inform the House of Representatives that I have this day approved H. B. No. 48, entitled An Act to establish and regulate the fees of sheriffs in the Territory of Montana.

This House Bill inaugurates a reform in the right direction, but unfortunately it stops short of a real and substantial reform, such as the people hoped would be adopted.

Respectfully,

B. F. POTTS, *Governor.*

Mr. Sutton, from Committee on Finance, reported back H. B. No. 9, recommending it do pass.

Also, C. B. No. 25, recommending it do pass.

Also, C. B. No. 33, recommending it do pass.

Mr. Dean gave notice that he would on to-morrow introduce a bill for an act to remove the capital of Montana to Radersburg, Jefferson county.



On motion of Mr. Kerley, the Speaker appointed a Select Committee, consisting of Messrs. Kerley, Dusold, and Kennedy, to wait upon the secretary of the territory and ascertain at what time he would be prepared to pay the members of this House, and the officers thereof, for their services, and in what manner and at what price per diem.

Mr. Alger offered the following resolution, which was adopted :

*Resolved*, That rule 38, relating to standing committees, be amended so that the ninth committee in order of call shall be a Committee on Education and Labor.

H. B. No. 32 having passed the Council, with amendments thereto, was taken up, amendments read, and, on motion of Mr. Ezekiel, the House refused to concur in the amendments, and the Council was requested to recede therefrom.

H. B. No. 56, being the special order, was taken up, and, on motion of Mr. Sanders, was made the special order for 10:30 o'clock A. M. to-morrow.

C. B. No. 14 was taken up, and, on motion of Mr. Alger, the rules were suspended, bill read third time, and passed by the following vote .

*Ayes*—Messrs. Aiken, Alger, Brown, Carmichael, Chessman-Coleman, Curtis, Dusold, Emerson, Ezekiel, Hartwell, Harrington, Heldt, Kennedy, Kerley, Mead, McCauley, O'Keefe, Sanders, Stafford, Sutton, Tate and Mr. Speaker—23.

*Nays*—Messrs. Dean and Mallory—2.

Title agreed to.

C. B. No. 1, an act to amend an act entitled elections, was taken up, and, on motion of Mr. Coleman, was indefinitely postponed by the following vote :

*Ayes*—Messrs. Aiken, Alger, Brown, Carmichael, Coleman, Curtis, Dean, Emerson, Ezekiel, Harrington, Heldt, Kennedy, Kerley, Mallory, Mead, McCauley, Stafford, Sutton, Tate, and Mr. Speaker—20.

*Nays*—Messrs. Chessman, Dusold, Hartwell O'Keefe, and Sanders—5.

C. B. No. 45, an act establishing and regulating the fees and compensation of secretary of the territory, territorial auditor and treasurer, and superintendent of public instruction, was taken up. Mr. Sanders moved to re-commit to Committee on Finance, with instructions to report a bill reducing the salaries of territorial auditor and treasurer twenty-five per cent, which was lost by the following vote :

*Ayes*—Messrs. Carmichael, Chessman, Dean, Dusold, Hartwell, Heldt, Mallory, O'Keefe, and Sanders.—9. .

*Nays*—Messrs. Aiken, Alger, Brown, Coleman, Curtis, Emerson, Ezekiel, Harrington, Kennedy, Kerley, Mead, McCauley, Stafford, Sutton, Tate, and Mr. Speaker—16.

On motion of Mr. Alger, the rules were suspended, bill read third time by its title, and passed by the following vote :

*Ayes*—Messrs. Aiken, Alger, Brown, Carmichael, Chessman, Coleman, Curtis, Emerson, Ezekiel, Hartwell, Harrington, Heldt, Kennedy, Kerley, Mead, McCauley, Stafford, Sutton, Tate, and Mr. Speaker . 20.

*Nays*—Messrs. Dean, Dusold, Mallory, O'Keefe, and Sanders—5.

Title agreed to.

On motion of Mr. Sanders, the vote by which House Bills Nos. 18, 26, 30, 31, 39, and 45 were made the special order for Wednesday, at 11 o'clock A. M., was reconsidered.

And H. B. No. 18, an act to repeal a portion of section 23 of an act providing for the collection of the revenue, approved January 12, 1872, was taken up and passed by the following vote:

*Ayes*—Messrs. Alger, Carmichael, Chessman, Coleman, Curtis, Dusold, Ezekiel, Hartwell, Harrington, Heldt, Kerley, Mead, McCauley, O'Keefe, Sanders, Stafford, Sutton, Tate, and Mr. Speaker—19.

*Nays*—Messrs. Aiken, Brown, Dean, Emerson, Kennedy and Mallory—6.

Title agreed to.

On motion of Mr. Sanders, H. Bills Nos. 26, 30, 31, 39 and 45 were made the special order for Wednesday, at 11 o'clock A. M.

On motion of Mr. Hartwell, House took recess until 2, o'clock, P. M.

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2 O'CLOCK P. M.—House resumed. Mr. Speaker in the chair.

Roll called—quorum present.

Absent—Mr. Tate.

H. B. No. 42 being the special order in Committee of the Whole, was taken up.

Mr. Kerley, from Select Committee appointed to wait upon the Secretary of the Territory, reported as follows:

“Your Select Committee, appointed to wait upon Secretary Callaway, beg leave to report as follows:

"We called upon the Secretary, and upon stating the object of our visit, were informed by him that as soon as the Legislature adjourned, he would issue to each member a certificate of indebtedness, for the number of days of service, at the rate of six dollars per day, and twenty cents per mile. And he further stated that the certificate of indebtedness would not be paid until an appropriation is made by Congress for that purpose."

On motion of Mr. Ezekiel, report was received and the committee discharged.

Mr. Alger, from Committee on Enrollment, reported C. B. No. 36, and H. Bills Nos. 8 and 33, correctly enrolled.

The Speaker announced that he had signed H. Bills Nos. 8 and 33; also, C. Bills Nos. 30, 35, 36 and 49.

House resolved itself into Committee of the Whole, on H. B. No. 42.

House resumed. Mr. Speaker in the chair.

Mr. Alger, from Committee on Enrollment, reported that he had handed H. Bills Nos. 8 and 33 to the Governor, for his approval at 2:30 P. M.

On motion of Mr. Dusold, House resolved itself into Committee of the Whole, for the further consideration of H. B. No. 42.

House resumed to receive the following communication from the Governor, through his private secretary, C. H. St. Clair:

TERRITORY OF MONTANA, }  
EXECUTIVE DEPARTMENT, }  
VIRGINIA CITY, April 28, 1873. }

*To the House of Representatives:*

I have the honor to inform the House of Representatives, that I have this day approved H. B. No. 8, entitled An Act to

amend section one (1) of an act entitled, An Act creating the office of district attorney in each of the organized judicial districts of Montana Territory.

Also: H. B. No. 33 entitled, An Act prohibiting the establishment and conducting of dancing saloons and hurdy houses in the Territory of Montana.

Respectfully,

B. F. POTTS, *Governor.*

House resolved itself into Committee of the Whole, on H. B. No. 42.

House resumed to receive the following communication from the Council, through Chief Clerk, A. M. S. Carpenter:

COUNCIL CHAMBER,  
VIRGINIA CITY, M. T., April 28, 1873. }

*Mr. Speaker:*

I am instructed by the Council to inform your honorable body, that C. B. No. 15, justices fee bill, C. B. No. 39 providing for the payment of jurors, H. B. No. 51, H. B. No. 47 and H. B. No. 41, have passed the Council.

Also: That C. B. No. 20, penitentiary bill, has passed the Council.

House resumed. Mr. Speaker in the chair.

On motion of Mr. Ezekiel, House again resolved itself into Committee of the Whole, for the further consideration of H. B. No. 42.

House resumed. Mr. Speaker in the chair.

On motion of Mr. Kerley, the House adjourned until 10 o'clock A. M. to-morrow.

J. H. ROGERS,

*Speaker of the House of Representatives.*

W. W. CHAPMAN, *Chief Clerk.*

## SIXTEENTH DAY.

APRIL 29, 1873.

House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—quorum present.

Absent—Mr. Hartwell.

Journal of previous day read and approved.

Mr. Alger, from Joint Committee on Enrollment, reported H. Bills Nos. 41, 47 and 51 correctly enrolled.

Mr. Heldt, from Committee on Engrossment, reported substitute for H. B. No. 1 and H. B. No. 49, as amended; H. B. No. 6, correctly engrossed; also, H. C. R. No. 6.

The Speaker announced that he had signed H. Bills Nos. 41, 47 and 51.

Mr. Aiken, Chairman from the Committee of the Whole, reported back H. B. No. 42, with amendments, recommending the bill as amended do pass.

H. J. M. No. 1, asking congress for the establishment of a United States Assay office in Montana Territory, was taken up with Council amendment, and, on motion of Mr. Sanders, was concurred in by the House.

H. B. No. 56, an act to fix the time of holding the regular sessions of future Legislative Assemblies of Montana Territory and to change the time of the ending of the fiscal year for territorial purposes, being the special order, was taken up.

Mr. Sanders moved to recommit to Committee on Finance with instructions to strike out all of section 2.

Mr. Kerley moved to amend amendment by instructing clerk to make correction.

Carried.

On motion of Mr. Ezekiel, was further amended, by making section 3 section 2, and section 4 section 3.

And on the question, "Shall the bill pass?" the ayes and nays being called, resulted as follows:

*Ayes*—Messrs. Brown, Carmichael, Coleman, Curtis, Dean, Dusold, Emerson, Ezekiel, Hartwell, Harrington, Kerley, Mallory, Mead, McCauley, O'Keefe, Sanders, Stafford, Sutton, and Tate—19.

*Nays*—Messrs. Aiken, Chessman, Heldt, Kennedy, and Mr. Speaker—5.

Bill passed.

On motion of Mr. Sanders the title was amended by striking out the words "and to change the ending of the fiscal year for territorial purposes."

Title as amended, agreed to.

H. B. No. 9, an act to authorize the Territorial Auditor to perform certain duties, and to repeal section 20 of an act providing for the collection of the revenue, approved January 12, 1872, was taken up.

Mr. Carmichael was called to the chair.

On motion of Mr. Ezekiel, the rules were suspended, bill considered engrossed, read third time, and passed by the following vote:



*Ayes*—Messrs. Brown, Carmichael, Chessman, Dean, Dusold, Ezekiel, Hartwell, Harrington, Heldt, Mallory, Mead, Sanders, Stafford, Sutton and Tate—15.

*Aays*—Messrs. Aiken, Coleman, Curtis, Emerson, Kennedy, Kerley, McCauley, O'Keefe and Mr. Speaker—9.

Absent—Mr. Alger—1.

Title agreed to.

Mr. Speaker resumed the chair.

Mr. Alger, from Joint Committee on Enrollment, reported C. B. No. 10 correctly enrolled.

The Speaker announced that he had signed C. B. No. 10.

Substitute for H. B. No. 61, An Act to amend section 202, of an act entitled An Act to regulate proceedings in civil cases in the courts of justice of the Territory of Montana, approved January 12, 1872, was taken up, and on motion of Mr. Coleman, was adopted.

On motion of Mr. Coleman, the rules were suspended, bill considered engrossed, and passed by the following vote:

*Ayes*—Messrs. Aikin, Brown, Carmichael, Chessman, Coleman, Curtis, Dean, Dusold, Emerson, Ezekiel, Hartwell, Harrington, Heldt, Kennedy, Kerley, Mallory, Mead, McCauley, O'Keefe, Sanders, Stafford, Sutton, Tate and Mr. Speaker—24.

Excused—Mr. Alger—1.

On motion of Mr. Sanders, the title was amended by striking out the words "on page 57," and agreed to as amended.

By leave Mr. Dusold gave notice that he would on to-morrow introduce a bill for An Act to provide for the payment of certain expenses, and making an appropriation therefor.

Mr. Alger, from the Committee on Enrollment, reported that he had handed H. Bs. Nos. 41, 47 and 51 to the Governor for his approval at 11:10 A. M. this day.

H. B. No. 13, An Act entitled An Act to amend chapter 2 of title 16, of the civil practice act of Montana Territory, approved January 12, 1872, was taken up, and passed by the following vote :

*Ayes*—Messrs. Aiken, Brown, Chessman, Coleman, Curtis, Dean, Dusold, Emerson, Ezekiel, Hartwell, Harrington, Heldt, Kennedy, Mallory, Mead, McCauley, O'Keefe, Stafford, Sutton, and Tate—20.

*Nays*—Messrs. Carmichael, Kerley, Sanders, and Mr. Speaker—4.

Absent—Mr. Alger—1.

On motion of Coleman, the title was amended by striking out and inserting the words, " An Act to enlarge the jurisdiction of probate courts in civil cases."

Title agreed to as amended.

Mr. Dusold moved to adopt the report of the Committee of the Whole on H. B. No. 42, which was carried and bill ordered engrossed.

C. B. No. 20 : Introduced by Mr. Yager, An Act to regulate and govern the penitentiary at Deer Lodge City, Montana Territory, was taken up, read first and second times, and, on motion of Mr. Coleman, was made the special order for 2 o'clock P. M. to-day in Committee of the Whole.

C. B. No. 48 was taken up, read third time, and, by leave, on motion of Mr. Ezekiel, was amended by striking out the words " the general and miscellaneous laws of the Territory of Montana, concerning estrays and lost goods," and inserting in lieu thereof the words, " An Act revising, re-enacting and

codifying the general and permanent laws of Montana Territory, approved January 12, 1872."

Ordered engrossed.

Communication from the Governor, through his private secretary, C. H. St. Clair :

TERRITORY OF MONTANA, }  
EXECUTIVE DEPARTMENT, }  
VIRGINIA CITY, April 29, 1873. }

*To the House of Representatives :*

I have this day approved H. B. No. 51, entitled An Act defining the word "folio," where used in acts relating to the regulation of fees.

Also, H. B. No. 47, entitled An Act to establish and regulate the fees of witnesses, jurors, and certain officers in Montana Territory.

Also, H. B. No. 41, entitled An Act making an appropriation for printing the reports of the Auditor and Treasurer for the eighth fiscal year, made to the Governor December 1, 1872.

Respectfully,

B. F. POTTS, *Governor.*

On motion of Mr. Stafford, House took a recess till 2 o'clock P. M.

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2 o'clock P. M.—House resumed. Mr. Speaker in the chair.

Roll called—quorum present.

On motion of Mr. Alger, the House resolved itself into Committee of the Whole on C. B. No. 20.

Mr. Alger called to the chair.

House resumed—Mr. Speaker in the chair.

Communication from the Council, through Chief Clerk A. M. S. Carpenter, announcing that H. B. No. 7, C. J. R. No. 25, Council Substitute for H. B. No. 12, had passed the Council.

Also, that H. B. No. 22 had passed the Council with amendments, and title amended and agreed to.

On motion of Mr. Kerley, House again resolved itself into Committee of the Whole for the further consideration of C. B. No. 20.

House resumed. Mr. Speaker in the chair.

C. J. R. No. 2, introduced by Committee on Ways and Means, authorizing the territorial auditor to draw his warrant on the territorial treasurer in favor of himself for balance due him in salary, read first and second times, and referred to Finance Committee.

Mr. Alger, Chairman from Committee of the Whole, reported back C. B. No. 20, recommending it be printed.

On motion of Mr. Ezekiel, report was adopted and bill ordered printed.

On motion of Mr. Sanders, the vote by which C. B. No. 21 was indefinitely postponed, was reconsidered and bill recommitted to Judiciary Committee.

C. Substitute for H. B. No. 28 was taken up, read first and second times, and on motion of Mr. McCauley, was referred to Judiciary Committee.

Communication from the Council, through Chief Clerk A. M. S. Carpenter, announcing that H. B. No. 52 had passed the Council with amendments.

Also: C. Substitute for H. B. No. 28.

Also, that C. B. No. 53, relating to administrators; C. B. No. 6, relating to the payment of fees; C. B. No. 58, requiring officers to record official bonds; C. B. No. 59, to amend sections of chapter 47 of codified general laws; C. B. No. 60, to punish persons breaking jail; C. B. No. 62, to amend act incorporating historical society; C. B. No. 64, in relation to administrators; C. B. No. 65, to amend act relating to election of justices of the peace—have passed the Council.

That Mr. Bullock has introduced C. B. No. 63, to allow certain counties to subscribe to the capital stock of railroad companies.

C. Substitute for H. B. No. 12, an act to repeal an act to provide against the evils resulting from the sale of intoxicating liquors, was taken up, read first and second times, and, on motion of Mr. Sanders, rules were suspended, bill read third time, and passed by the following vote:

*Ayes*—Messrs. Aiken, Alger, Brown, Carmichael, Chessman, Coleman, Curtis, Dean, Dusold, Emerson, Ezekiel, Hartwell, Harrington, Heldt, Kennedy, Mallory, McCauley, Sanders, Sutton, Tate and Mr. Speaker—21.

*Nays*—Messrs. Kerley, Mead, O'Keefe and Stafford—4.

Title amended by adding the words "and for other purposes."

Ordered enrolled.

Mr. Sanders moved to reconsider the vote by which H. B. No. 12 was passed, and to lay the motion on the table.

Carried.

H. B. No. 22, an act to punish vagrants and idlers, with Council amendments, was taken up, and, on motion of Mr. Coleman, amendments concurred in.

Ordered enrolled.

H. B. No. 52, with Council amendments, was taken up, and, on motion of Mr. Sanders, amendments concurred in.

Bill ordered enrolled.

Mr. Aiken, from Committee on Mines and Minerals, reported back H. B. No. 25, with amendments, recommending its passage as amended. Report adopted, and, on motion of Mr. Sanders, was amended by striking out the words "lead and or ledge" where they occur in the words "lead, lode or ledge" consecutively; also where the words "leads, lodes or ledges" occur consecutively, to strike out the words "leads and or ledges;" also by striking out the words "Idaho Legislature" where they occur in section 10, and insert the words "Legislative Assembly of the Territory of Idaho."

Also, further amended on motion of Mr. Chessman, by adding to section 10 the following: "Provided that nothing in this act shall be construed to impair in any way, rights or interests in mining property acquired under existing laws."

Further amended on motion of Mr. Ezekiel, by striking out in line 3 the words "The Codified General Laws of the Legislative Assembly," and inserting the words "An Act revising, re-enacting, and codifying the general and permanent laws."

Further amended on motion of Mr. Hartwell, by striking out the word "county" where it occurs in line 5, section 6, and insert in lieu thereof the words "Territory of Montana," and striking out the balance of the line.

Also, on motion, Mr. Heldt amended section 7, lines 5 and 6, so as to read as follows: "Not less than one hundred dollars or more than one thousand dollars, or imprisonment in

the county jail not less than thirty days or more than ninety days, or by both such fine and imprisonment."

Amended, on motion of Mr. Sanders, by inserting before words "chapter 45," the words "article one of."

Bill as amended ordered engrossed.

H. B. No. 37, an act relating to quartz lodes, etc., was, on motion of Mr. Sanders, laid on the table.

On motion of Mr. Sanders, House adjourned until 10 o'clock A. M. to-morrow.

J. H. ROGERS,

*Speaker of House of Representatives.*

W. W. CHAPMAN, *Chief Clerk.*

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## SEVENTEENTH DAY.

APRIL 30, 1873.

House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—quorum present.

Absent—Messrs. Coleman and Stafford.

Journal of preceding day read and approved.

Mr. Hartwell, from select committee, reported back C. B. No. 32, with substitute, recommending its passage.

Mr. Coleman, from Committee on Judiciary, reported back C. B. No. 21, with a substitute, recommending its passage.



Mr. O'Keefe gave notice of a bill for an act making appropriation to secure a representation at the Vienna exposition.

Also, a bill for an act to provide for the care and maintenance of the insane of this territory.

Mr. Dusold introduced H. B. No. 63, an act to provide for the payment of certain expenses, and making appropriations therefor.

Communication from the Governor, through his private secretary, C. H. St. Clair:

TERRITORY OF MONTANA, )  
EXECUTIVE DEPARTMENT, )  
VIRGINIA CITY, April 30, 1873. }

*To Hon. J. H. Rogers, Speaker of the House of Representatives :*

SIR :—I have received from the U. S. Marshal a statement of the cost of maintaining the United States penitentiary at Deer Lodge City for the month of April, and by a comparison of the cost with the Council bills, the territory will pay the United States about fifty dollars in excess of what it cost for the maintenance of said penitentiary for the said month of April. If any member of the House thinks he is saving money for the territory by delaying the passage of the Council Bill, he is mistaken. I trust the House will not further delay action on the bill.

Respectfully,

B. F. POTTS, *Governor.*

Substitute for H. B. No. 1, an act to enlarge by amending section 1 of chapter 23 of an act revising, re-enacting and codifying the general and permanent laws of Montana Territory, approved January 12, 1872, was taken up, read first and second times, and indefinitely postponed.

Mr. Alger, from Joint Committee on Enrollment, reported H. Bs. Nos. 7, 12, 22, and 52, and C. Bs. Nos. 14 and 45, and H. J. Memorial No. 1 correctly enrolled.

H. C. R. No. 6 was taken up, read third time, and, on motion of Mr. O'Keefe, was recommitted to Committee on Judiciary.

The Speaker gave notice that he had signed Council Bills Nos. 14 and 45.

H. B. No. 49, an act to establish and regulate the fees of assessors, coroners and other officers in the Territory of Montana, was taken up, read third time, and passed by the following vote:

*Ayes*—Messrs. Aiken, Alger, Brown, Carmichael, Coleman, Curtis, Dean, Dusold, Emerson, Ezekiel, Hartwell, Harrington, Heldt, Kennedy, Kerley, Mallory, Mead, McCauley, O'Keefe, Sanders, Stafford Sutton, Tate and Mr. Speaker—24.

*Nays*—None.

Absent — Mr. Chessman—1.

Title agreed to.

The Speaker announced that he had signed H. Bs. Nos. 7, 12, 22, and 52; also H. J. M. No. 1.

H. B. No. 60 was taken up, and, on motion of Mr. Stafford, was recommitted to Judiciary Committee, with instructions to report a substitute.

C. B. No. 25 was taken up, read third time, and, on motion of Mr. Sutton, was recommitted to Finance Committee.

H. Bs. Nos. 26, 30, 31, 39 and 45 being the special order, were taken up, and, on motion of Mr. Kerley, were laid on the table for further consideration.

C. B. No. 9, an act to amend an act to provide for a system of common schools, read first and second times, and referred to Committee on Education and Labor, with instructions to report on or before 10 $\frac{1}{2}$  o'clock A. M. to-morrow.

Mr. Alger, from Committee on Enrollment, reported that he had handed H. Bs. Nos. 7, 12, 22, and 52, also H. J. M. No. 1, to the Governor for his approval, at 11 o'clock A. M. this day.

C. B. No. 15 : Introduced by Mr. Beck, for an act to establish and regulate the fees of justices of the peace in the Territory of Montana. Read first and second times, and, on motion of Mr. Coleman, rules suspended, bill read third time, and passed by the following vote :

*Ayes*—Messrs. Aiken, Alger, Brown, Carmichael, Chessman, Coleman, Curtis, Dean, Dusold, Emerson, Ezekiel, Hartwell, Harrington, Heldt, Kennedy, Kerley, Mallory, Mead, McCauley, O'Keefe, Sanders, Stafford, Sutton, Tate, and Mr. Speaker—25.

*Nays*—None.

Title agreed to.

C. B. No. 33, an act authorizing the Territorial Treasurer to issue bonds, was taken up, amended, on motion of Mr. Ezekiel, by transposing the position of title and enacting clause.

On motion of Mr. Sanders, the rules were suspended, amendments considered engrossed, and passed by the following vote :

*Ayes*—Messrs. Alger, Brown, Carmichael, Chessman, Coleman, Curtis, Dean, Dusold, Emerson, Ezekiel, Hartwell, Harrington, Heldt, Kennedy, Kerley, Mallory, Mead, McCauley, O'Keefe, Sanders, Stafford, Sutton, Tate, and Mr. Speaker—24.

*Nays*—None.

Absent—Mr. Aiken—1.

Title agreed to.

C. B. No. 39, introduced by Mr. Yager, an act to provide for the payment of jurors in Montana Territory, was taken up, read first and second times, and referred to Committee on Judiciary.

C. B. No. 44 was taken up, read second time, and, on motion of Mr. Ezekiel, was amended by inserting a period after word "cases," in last line of section 1; also by striking out the word "and" in same line.

Mr. Sanders moved to recommit to Finance Committee, with instructions to report a bill reducing the fees therein named 25 per cent, which was lost by the following vote :

*Ayes*—Messrs. Carmichael, Chessman, Dean, Dusold, Hartwell, Heldt, and Sanders—7.

*Nays*—Messrs. Aiken, Alger, Brown, Coleman, Curtis, Emerson, Ezekiel, Harrington, Kennedy, Kerley, Mallory, Mead, McCauley, O'Keefe, Sutton, Tate, and Mr. Speaker—17.

Absent—Mr. Stafford—1.

Communication from the Governor, through his private secretary, C. H. St. Clair :

TERRITORY OF MONTANA, }  
EXECUTIVE DEPARTMENT, }  
VIRGINIA CITY, April 30, 1873. }

*To the House of Representatives :*

I have the honor to inform the House of Representatives that I have this day approved H. J. M. No. 1, asking Congress to establish an assay office in Montana Territory.

Also, H. B. No. 52, entitled an act to repeal section 2; of chapter 27, of an act entitled An Act revising, re-enacting and codifying the general and permanent laws of Montana Territory, approved January 12, 1872.

Also, H. B. No. 12, entitled an act to repeal an act entitled An Act to provide against the evils resulting from the sale of

intoxicating liquors in the Territory of Montana, and for other purposes, approved January 12, 1872.

Respectfully,

B. F. POTTS, *Governor*.

On motion of Mr. Dean, House took recess until 2 o'clock P. M.

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2 o'clock P. M.—House resumed—Mr. Speaker in the chair.

Roll called—quorum present.

Absent—Messrs. Brown, Coleman, and Heldt.

On motion of Mr. Alger, House resolved itself into Committee of the Whole on special order, H. B. No. 57.

Mr. Alger in the chair.

House resumed, Mr. Speaker in the chair.

Mr. Alger, from Committee of the Whole, reported back H. B. No. 57, recommending it be rejected.

Mr. Alger called to the chair.

On motion of Mr. Kerley, the rule was suspended, limiting speeches to ten minutes.

A call of the House ordered.

Absent—Mr. Speaker.

Sergeant-at-Arms ordered to bring in the absentee.

Sergeant-at-Arms reported Mr. Speaker in his seat.

On motion of Mr. Sanders, a further call of the House was dispensed with, and on the question "Shall the bill be rejected?" the ayes and nays being called, resulted as follows:

*Ayes*—Messrs. Aiken, Alger, Brown, Coleman, Curtis, Dean, Emerson, Harrington, Kennedy, Kerley, Mallory, Mead, McCauley, Sutton, Tate, and Mr. Speaker—16.

*Nays*—Messrs. Carmichel, Chessman, Dusold, Ezekiel, Hartwell, Heldt, O'Keefe, Sanders, and Stafford—9.

Bill rejected.

On motion of Mr. Kerley, House adjourned until 10 o'clock A. M. to-morrow.

J. H. ROGERS,

*Speaker of House of Representatives.*

W. W. CHAPMAN, *Chief Clerk.*

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## EIGHTEENTH DAY.

MAY 1, 1873.

House met pursuant to adjournment—Mr. Speaker in Chair.

Roll called—quorum present.

Absent—Mr. Ezekiel.

Journal of previous day read and approved.

Communication from the Council, through Chief Clerk Carpenter, announcing that C. B. No. 19, road bill, had passed the Council, and H. B. No. 11, to repeal alien law, was defeated in the Council.

Mr. Heldt, from Committee on Engrossment, reported H. J. M. No. 2, and House Bills Nos. 42, 23, and 50, and C. B. No. 23, correctly engrossed.

Mr. Kerley, from Committee on Printing, reported C. B. No. 20 correctly printed, with one exception.

Mr. Sutton, from Committee on Finance, reported back C. B. No. 25, with amendments, recommending the bill as amended do pass.

Mr. Sanders, from Committee on Education and Labor, reported back C. B. No. 9, with amendments, recommending the bill as amended do pass.

Mr. Coleman, from Committee on Judiciary, reported back C. B. No. 22, with amendments, recommending the bill as amended do pass.

Also, H. B. No. 60, with a substitute, recommending passage of substitute.

Also, H. B. No. 53, with amendments, recommending the bill as amended do pass.

Communication from the Council, through Chief Clerk Carpenter, announcing that H. B. No. 49 had passed the Council; H. B. No. 14 had passed the Council, with amendments, and that the Council had receded from its amendments to H. B. No. 32.

H. J. R. No. 1, with Council amendments, was taken up and amendments concurred in, and ordered engrossed.

C. B. No. 44, an act to establish and regulate the fees of probate judge and clerk thereof, was taken up, and, on motion of Mr. Alger, the rules were suspended, bill read third time, and passed by the following vote:



*Ayes*—Messrs. Aiken, Alger, Brown, Carmichael, Coleman, Curtis, Emerson, Ezekiel, Harrington, Kennedy, Kerley, Mallory, Mead, McCauley, Stafford, Sutton, and Tate—17.

*Nays*—Messrs. Chessman, Dean, Dusold, Hartwell, Heldt, O'Keefe, Sanders, and Mr. Speaker—8.

Title agreed to.

C. B. No. 37, an act entitled An Act to amend an act revising, re-enacting, and codifying the general and permanent laws of Montana Territory, approved January 12, 1872, was taken up, read third time, and passed by the following vote :

*Ayes*—Messrs. Aiken, Alger, Brown, Carmichael, Chessman, Coleman, Curtis, Dusold, Emerson, Ezekiel, Hartwell, Harrington, Heldt, Kennedy, Kerley, Mallory, Mead, McCauley, Stafford, Sutton, Tate, and Mr. Speaker—22.

*Nays*—Messrs. Dean, O'Keefe, and Sanders—3.

Title agreed to.

H. B. No. 50, an act establishing and regulating the fees of district attorneys and other officers in Montana Territory, was taken up, read third time, and passed by the following vote :

*Ayes*—Messrs. Aiken, Alger, Brown, Carmichael, Chessman, Coleman, Curtis, Dean, Dusold, Emerson, Ezekiel, Hartwell, Harrington, Heldt, Kennedy, Kerley, Mallory, Mead, McCauley, O'Keefe, Sanders, Stafford, Sutton, Tate, and Mr. Speaker—25.

*Nays*—None.

Title agreed to.

H. B. No. 42, an act to provide for the formation of railroad corporations in the Territory of Montana, was taken up, rules suspended, read third time by title, and passed by the following vote :

*Ayes*—Messrs. Aiken, Alger, Brown, Carmichael, Chessman, Coleman, Curtis, Dean, Dusold, Emerson, Ezekiel, Hartwell, Harrington, Heldt, Kennedy, Mallory, Mead, McCauley, O'Keefe, Sanders, Stafford, Sutton, and Tate—23.

*Nays*—Mr. Kerley and Mr. Speaker—2.

Title agreed to.

C. B. No. 20 was taken up, and on motion of Mr. Coleman, was made the special order for 2 o'clock p. m. this day, in Committee of the Whole.

House amendments to C. B. No. 9, An Act to amend an act to provide for a system of common schools, was taken up, amendments adopted, rules suspended, amendments considered engrossed, bill read third time, and passed by the following vote :

*Ayes*—Messrs. Aiken, Brown, Carmichael, Chessman, Coleman, Curtis, Dean, Dusold, Emerson, Ezekiel, Hartwell, Harrington, Heldt, Kennedy, Mallory, Mead, McCauley, O'Keefe, Sanders, Stafford, Sutton, Tate, and Mr. Speaker—23.

*Nays*—Mr. Kerley—1.

Absent (on leave)—Mr. Alger—1.

Title agreed to.

House substitute for C. B. No. 32, for An Act to incorporate the City of Helena, on motion of Mr. McCauley, substitute adopted, read third time, and passed by the following vote :

*Ayes*—Messrs. Aiken, Alger, Brown, Chessman, Coleman, Curtis, Dean, Dusold, Emerson, Ezekiel, Hartwell, Harrington, Heldt, Kennedy, Kerley, Mallory, Mead, McCauley, O'Keefe, Sanders, Stafford, Sutton, Tate, and Mr. Speaker—24.

*Nays* — None.

Absent—Mr. Carmichael.—1.

Title agreed to.

H. J. M. No. 2, asking Congress for additional clerical force in territorial legislative assemblies, was taken up, read third time, and passed by the following vote :

*Ayes*—Messrs. Aiken, Alger, Brown, Carmichael, Chessman, Coleman, Curtis, Dean, Dusold, Emerson, Ezekiel, Hartwell, Harrington, Heldt, Kennedy, Kerley, Mallory, Mead, McCauley, O'Keefe, Sanders, Stafford, Sutton, Tate, and Mr. Speaker—25.

*Nays*—None.

Title agreed to.

On motion of Mr. Coleman, House took recess until 2 o'clock P. M.

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2 O'CLOCK P. M. — House resumed — Mr. Speaker in the chair.

Roll called—quorum present.

Mr. Alger, from Joint Committee on Enrollment, reported C. Bs. Nos. 15 and 33, and H. J. R. No. 1, correctly enrolled.

On motion of Mr. Ezekiel, House resolved itself into Committee of the Whole on special order, C. B. No. 20.

Mr. Ezekiel in the chair.

On motion of Mr. Emerson, a call of the House was made.

Absent—Mr. Dean and Mr. Speaker.

Sergeant-at-Arms ordered to bring in the absentees.

Sergeant-at-Arms reported the absentees in their seats.

On motion of Mr. Sanders, the further call of the House was dispensed with.

Communication from the Council, through Chief Clerk Carpenter, announcing that H. J. R. No. 1 had passed the Council with amendments; that C. B. No. 66, An Act making certain appropriations, had passed the Council, and that H. B. No. 9 was lost in the Council.

House resumed—Mr. Speaker in the chair.

The Speaker announced that he had signed H. J. R. No. 1; also C. Bs. Nos. 15 and 33.

On motion of Mr. Dusold, House again resolved itself into Committee of the Whole for the further consideration of C. B. No. 20.

House resumed—Mr. Speaker in the chair.

C. B. No. 46, for An Act concerning licenses, was taken up, read first and second times, and made special order for 10:30 A. M. to-morrow.

Mr. Sutton, from Committee on Finance, reported back C. J. R. No. 2, recommending its passage; also H. B. No. 63, with amendments, recommending the bill, as amended, do pass.

H. B. No. 14, with Council amendments, was taken up, amendments concurred in, and ordered enrolled.

H. C. R. No. 7, introduced by Mr. Alger, adjourning this Legislative Assembly *sine die* on Saturday, May 3, at 11:50 P. M., was read first and second times, and ordered engrossed.

Substitute for H. B. No. 60 was taken up, substitute adopted, and, on motion of Mr. Coleman, the rules were suspended, the bill considered engrossed, and passed by the following vote :

*Ayes*—Messrs. Aiken, Brown, Chessman, Coleman, Curtis, Dean, Dusold, Emerson, Hartwell, Harrington, Heldt, Kennedy, Kerley, Mallory, Mead, McCauley, Sanders, Stafford, Sutton, Tate, and Mr. Speaker—21.

*Nays*—Messrs. Alger, Carmichael, Ezekiel, and O'Keefe—4.

Mr. Alger, from Committee on Enrollment, reported H. J. R. No. 1 handed to the Governor for his approval at 3:45 p. m.

C. B. No. 25, an act to amend section 7, of chapter 35, of the general and miscellaneous laws, concerning revenue, was taken up, amendments adopted, rules suspended, amendments considered engrossed, bill read third time, and passed by the following vote :

*Ayes*—Messrs. Aiken, Alger, Brown, Carmichael, Coleman, Curtis, Dusold, Emerson, Ezekiel, Harrington, Kennedy, Kerley, Mallory, Mead, McCauley, Stafford, Sutton, and Mr. Speaker—18.

*Nays*—Messrs. Chessman, Dean, Hartwell, Heldt, O'Keefe, Sanders, and Tate—7.

Title amended and agreed to.

On motion of Mr. Hartwell, House adjourned until 10 o'clock A. M. to-morrow.

J. H. ROGERS,

*Speaker of the House of Representatives.*

W. W. CHAPMAN, *Chief Clerk.*

## NINETEENTH DAY.

MAY 2, 1873.

House met pursuant to adjournment—Mr. Curtis called to the chair.

On motion of Mr. Ezekiel, a call of the House was made.

Absent—Messrs. Harrington and the Speaker.

Sergeant-at-Arms ordered to bring in absentees.

Mr. Speaker in the chair.

Journal of preceding day read and approved.

Mr. Alger called to the chair.

The Speaker granted leave of absence for twenty-five minutes.

Mr. Alger, from Committee on Enrollment, reported H. Bills Nos. 14, 32 and 49; also, C. Bills Nos. 37, and 49, correctly enrolled.

Mr. Ezekiel, chairman of the Committee of the Whole, reported back C. B. No. 20, with amendments, recommending the bill as amended do pass. Amendments adopted and ordered engrossed.

Mr. Heldt gave notice of a bill for An Act prohibiting the inhabitants of Deer Lodge county from giving any aid, or offering any inducements whatever, to any railroad company, to bring a railroad into Sun River Valley.

Communication from the Council, through Chief Clerk A. M. S. Carpenter, announcing that H. Bs. Nos. 18 and 50 had passed the Council; that C. B. No. 41, An Act concerning county bonds and warrants, C. B. No. 61, relating to certain county warrants of Madison county, had passed the Council.

That H. B. No. 19 had passed the Council with amendments.

That the Council had refused to concur in House amendments to C. B. No. 9, and respectfully ask the House to recede therefrom.

That the Council return H. J. M. No. 1 for correction.

Also, asking the House to return H. B. No. 9, for further action thereon.

H. B. No. 63 was taken up, amendments adopted, and ordered engrossed.

C. B. No. 50, introduced by Mr. Newcomer, for an act entitled An Act to prescribe the duties and regulate the fare that may be collected by stage coaches or other common carriers in Montana Territory, read first and second times and indefinitely postponed.

C. B. No. 62, An Act to amend an act entitled An Act to incorporate the Historical Society of Montana, read first and second times, rules suspended, read third time, and passed by the following vote:

*Ayes*—Messrs. Aiken, Alger, Brown, Carmichael, Chessman, Coleman, Curtis, Dean, Dusold, Emerson, Ezekiel Hartwell, Harrington, Heldt, Kennedy, Kerley, Mallory, Mead, McCauley, O'Keefe, Sanders, Stafford, Sutton, and Tate—24.

*Nays*—None.

Absent, by leave—Mr. Speaker—1.



Title agreed to.

C. B. No. 66, An Act making certain appropriations, was taken up, read first and second times, rules suspended, read third time, and passed by the following vote :

*Ayes*—Messrs. Aiken, Alger, Brown, Chessman, Coleman, Curtis, Dean, Dusold, Emerson, Ezekiel, Hartwell, Harrington, Heldt, Kennedy, Kerley, Mallory, Mead, McCauley, O'Keefe, Sanders, Stafford, Sutton, Tate, and Mr. Speaker—24.

*Nays*—Mr. Carmichael—1.

Title agreed to.

On motion of Mr. Sanders, a call of the House was made.

Absent—Mr. Speaker.

Sergeant-at-Arms ordered to bring in absentee.

On motion of Mr. Coleman, the further call of the House was dispensed with.

Mr. Sanders presented a petition from James M. Cavanaugh. Referred to Committee on Territorial Affairs.

On motion of Mr. Coleman, House resolved itself into Committee of the Whole on special order, C. B. No. 46.

Mr. Coleman in the chair.

House resumed—Mr. Speaker in the chair.

The Speaker announced that he had signed House Bills Nos. 14, 32, and 49.

Mr. Speaker read a communication from the Secretary of the Territory, refusing to furnish a further supply of stationery to the members of this House, and stating his reasons therefor.

On motion of Mr. Coleman, the House again resolved itself into a Committee of the Whole, for the further consideration of C. B. No. 46.

House resumed—Mr. Speaker in the chair.

Mr. Alger, from Committee on Enrollment, reported that he handed House Bills Nos. 14, 32, and 49 to the Governor for his approval at 11:15 A. M. this day.

On motion of Mr. Mallory, House took a recess until 2 o'clock P. M.

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2 O'CLOCK P. M.—House resumed—Mr. Speaker in the chair.

Roll called—quorum present.

Absent—Messrs. Aiken, Coleman, Kerley, and O'Keefe.

H. B. No. 19, with Council amendments, was taken up, amendment concurred in, and ordered enrolled.

Communication from the Governor, through his private secretary, Chas. H. St. Clair :

TERRITORY OF MONTANA,  
EXECUTIVE DEPARTMENT,  
VIRGINIA CITY, May 2, 1873. }

*To the House of Representatives :*

I have the honor to inform the House of Representatives that I have this day approved H. B. No. 49, entitled An Act to establish and regulate the fees of assessors, coroners, and other officers in the Territory of Montana.

Also, H. B. No. 14, entitled An Act to provide against the killing of game and catching of fish, and to repeal an act entitled An Act relating to the killing of game and catching of fish, approved January 2, 1872.

Respectfully,

B. F. POTTS, *Governor.*

C. B. No. 19, an act to define and provide for the working of public roads and highways, was taken up, read first and second times, and referred to Committee on Roads and Highways.

The Speaker announced that he had signed C. Bs. Nos. 37 and 40.

On motion of Mr. Coleman, House again resolved itself into a Committee of the Whole on C. B. No. 46.

House resumed—Mr. Speaker in the chair.

H. Bs. Nos. 29 and 61, with Council amendments, were taken up, amendments concurred in, and ordered enrolled.

Mr. Ezekiel called to the chair.

Mr. Coleman, chairman of Committee of the Whole, reported back C. B. No. 46, with amendments; amendments adopted, and ordered engrossed.

C. J. R. No. 2 was taken up. Mr. Sanders offered an amendment. Mr. Coleman moved to lay the amendment on the table.

On motion of Mr. Curtis, House adjourned to 10 o'clock A. M. to-morrow.

J. H. ROGERS,  
*Speaker House of Representatives.*

W. W. CHAPMAN, *Chief Clerk.*

## TWENTIETH DAY.

MAY 3, 1873.

House met pursuant to adjournment—Mr. Speaker in the chair.

Roll called—quorum present.

Absent—Messrs. Dusold, Hartwell, Heldt, Kerley, and Mallory.

Journal of the preceding day read and approved.

Mr. Alger, from Joint Committee on Enrollment, reported H. Bs. Nos. 18, 19, 29, 50, and 61; also C. Bs. Nos. 25, 62, and 66, correctly enrolled.

Mr. Speaker announced that he had signed H. Bs. Nos. 18, 19, 29, 50, and 61.

Mr. Heldt, from Committee on Engrossment, reported H. B. No. 25, H. C. R. No. 7, and House amendments to Council Bills Nos. 20 and 48 correctly engrossed.

Communication from the Governor, through his private secretary, C. H. St. Clair:

TERRITORY OF MONTANA, }  
EXECUTIVE DEPARTMENT, }  
VIRGINIA CITY, May 3, 1873. }

*To the House of Representatives:*

I have the honor to return H. B. No. 32, entitled An Act to amend an act called the Criminal Practice Act, without my approval.

The title of the bill is defective, because it does not clearly

define the object of the bill. The title, to correspond with the body of the bill, should read: An Act to amend section 117 of the Criminal Practice Act. The draft of the bill is otherwise defective in this: That the bill seeks to amend section 117, and yet does not repeal the original section, thereby increasing the uncertainties of the book of confusions, called the codified statutes.

Before the passage of this bill we had two conflicting sections on grand juries, now we have three.

If the Legislative Assembly, in its wisdom, determined that sixteen persons shall constitute a grand jury, I would suggest the repeal of section 117. I trust, in the reconsideration of this bill, you will correct the errors suggested.

Respectfully,

B. F. POTTS, *Governor*.

On motion of Mr. Sanders, the vote by which H. B. No. 32 passed this House, was reconsidered, and on the question "Shall the bill pass, the objections of the Governor to the contrary, notwithstanding?" the ayes and nays being called, resulted as follows:

*Ayes* — Messrs. Aiken, Brown, Chessman, Coleman, Curtis, Dusold, Emerson, Ezekiel, Hartwell, Harrington, Heldt, Kerley, Mead, McCauley, Sanders, Stafford, Sutton, Tate, and Mr. Speaker—19.

*Nays* — Messrs. Carmichael, Dean, Kennedy, Mallory, and O'Keefe—5.

Absent (excused)—Mr. Alger—1.

More than two-thirds of all the members present having voted in the affirmative, the Speaker declared the bill passed, the Governor's objections to the contrary, notwithstanding.

Communication from the Council, through their chief clerk A. M. S. Carpenter, announcing that C. B. No. 63, railroad bill, had passed the Council.

The Speaker announced that he had signed C. Bs. Nos. 25, 62, and 66.

C. J. R. No. 2, authorizing the Territorial Auditor to draw his warrant on the Territorial Treasurer for balance of salary due him, was taken up.

Mr. Sanders moved to recommit to Select Committee, with specific instructions.

Mr. Coleman moved to lay the motion on the table. Carried by the following vote :

*Ayes*—Messrs. Aiken, Alger, Brown, Coleman, Curtis, Dean, Emerson, Ezekiel, Harrington, Kennedy Kerley, Mead, McCauley, O'Keefe, Stafford, Sutton, Tate, and Mr. Speaker—18.

*Nays*—Messrs. Carmichael, Chessman, Dusold, Hartwell, Heldt, Mallory, and Sanders—7.

Mr. Carmichael called to the chair.

On motion of Mr. Ezekiel, rules were suspended, resolution read third time, by its title, and passed by the following vote :

*Ayes*—Messrs. Aiken, Alger, Brown, Carmichael, Chessman, Coleman, Curtis, Dean, Dusold, Emerson, Ezekiel, Harrington, Kennedy, Kerley, Mead, McCauley, O'Keefe, Stafford, Sutton, Tate, and Mr. Speaker—21.

*Nays*—Messrs. Hartwell, Heldt, Mallory, and Sanders—4.

Title agreed to.

Mr. Speaker resumed the chair.

Mr. Alger, from Committee on Enrollment, reported that he had handed H. Bs. Nos. 18, 19, 29, 50, and 61 to the Governor for his approval, at 10:40 A. M. this day.

C. B. No. 20, an act to regulate and govern the penitentiary at Deer Lodge City, Montana Territory, was taken up, rules suspended, bill read third time, by its title, and passed by the following vote :

*Ayes*—Messrs. Aiken, Alger, Brown, Carmichael, Chessman, Coleman, Curtis, Dean, Dusold, Emerson, Ezekiel, Hartwell, Harrington, Heldt, Kennedy, Kerley, Mallory, Mead, O'Keefe, Stafford, Sutton, Tate, and Mr. Speaker—23.

*Nays*—Messrs. McCauley and Sanders—2.

Title agreed to.

C. B. No. 61, introduced by Mr. Yager, an act relating to certain county warrants of Madison county, read first and second times, rules suspended, read third time, by its title, and passed by the following vote :

*Ayes*—Messrs. Aiken, Alger, Brown, Carmichael, Chessman, Curtis, Dean, Dusold, Emerson, Ezekiel, Hartwell, Harrington, Heldt, Kennedy, Kerley, Mallory, Mead, McCauley, O'Keefe, Stafford, Sutton, Tate, and Mr. Speaker—23.

*Nays*—Mr. Sanders—1.

Absent—Mr. Coleman—1.

Title agreed to.

H. B. No. 25, an act for the discovery, location, and recording of quartz lodes, was taken up, read third time, and passed by the following vote :

*Ayes*—Messrs. Aiken, Alger, Brown, Carmichael, Chessman, Coleman, Curtis, Dean, Dusold, Emerson, Ezekiel, Hartwell, Harrington, Heldt, Kerley, Kennedy, Mallory, Mead, McCauley, O'Keefe, Sanders, Stafford, Sutton, Tate, and Mr. Speaker—25.

*Nays*—None.



Title agreed to.

H. B. No. 53 was taken up, amendments adopted, and ordered engrossed.

Communication from the Council, through their chief clerk, A. M. S. Carpenter, announcing that C. B. No. 68, relating to county commissioners' fees, had passed the Council.

Mr. Sanders offered the following resolution, which was adopted :

*Resolved*, That H. J. M. No. 2 be returned to the Council with a statement that the House has no desire to change, and sees no cause to correct the same in any particular.

C. B. No. 63, introduced by select committee, for an act authorizing certain counties of Montana Territory to subscribe to the capital stock of railroad corporations, was taken up, read first and second times, and, on motion of Mr. McCauley, was referred to a select committee composed of one member from each county therein named.

The Speaker appointed, on said committee, Messrs. McCauley, Carmichael, Harrington, Hartwell, and Coleman.

H. J. R. No. 7, adjourning this Legislative Assembly on Saturday, May 3d, was taken up, and, on motion of Mr. Alger, was indefinitely postponed.

Mr. Sanders, from Judiciary Committee, by leave, reported back H. J. M. No. 3, as a substitute for H. J. R. No. 6. Substitute adopted, read first and second times, and referred to Committee on Federal Relations.

House refused to recede from amendments to C. B. No. 9, and, on motion of Mr. Ezekiel, the Speaker appointed a committee of conference on the part of the House and requested the Council to appoint a like committee. The Speaker appointed Messrs. Ezekiel and Sanders on said committee.

On motion of Mr. Brown, House took recess until 2 o'clock P. M.

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2 O'CLOCK P. M.—House resumed.—Mr. Speaker in the chair.

Roll called—quorum present.

Absent—Messrs. Brown, Carmichael, Coleman, Hartwell, Harrington, McCauley, and Sutton.

Mr. Alger, from Joint Committee on Enrollment, reported H. B. No. 56 correctly enrolled.

Communication from the Council, through their chief clerk, A. M. S. Carpenter, announcing that H. B. No. 13 had passed the Council with amendments.

That C. B. No. 34, for the relief of W. G. Barkley; C. J. R. No. 4, to pay Geo. F. Cope for printing, and C. C. R. No. 5, for the relief of R. W. Hill, had passed the Council.

H. B. No. 13, with Council amendments, was taken up, amendments read, and referred to Judiciary Committee.

The Speaker announced that he had signed H. B. No. 56.

Mr. Heldt, from Committee on Engrossment, reported H. B. No. 63, and H. amendments to C. B. No. 46, correctly engrossed.

C. C. R. No. 4, to pay Geo. F. Cope for printing, was taken up, read first and second times, rules suspended, read third time, and passed by the following vote :

*Ayes*—Messrs. Aiken, Carmichael, Chessman, Coleman, Curtis, Dean, Dusold, Emerson, Ezekiel, Harrington, Heldt,

Kennedy, Kerley, Mallory, Mead, McCauley, O'Keefe, Sanders, Sutton, Tate, and Mr. Speaker—22.

*Nays*—None.

Absent—Messrs. Brown, Hartwell, and Alger, by leave—3.

Title agreed to.

C. C. R. No. 5, for the relief of R. W. Hill, was taken up, read first and second times, and referred to Judiciary Committee.

H. B. No. 63, an act to provide for the payment of certain expenses, and making an appropriation therefor, was taken up, read third time, and passed by the following vote :

*Ayes*—Messrs. Aiken, Chessman, Coleman, Curtis, Dean, Dusold, Emerson, Hartwell, Harrington, Heldt, Kennedy, Kerley, Mallory, Mead, McCauley, O'Keefe, Sanders, Sutton, and Mr. Speaker—19.

*Nays*—Messrs. Carmichael, Ezekiel, Stafford, and Tate—4.

Absent—Messrs. Brown and Alger—2.

Title agreed to.

C. B. No. 46, an act concerning licenses, was taken up, read third time, and passed by the following vote :

*Ayes*—Messrs. Aiken, Alger, Carmichael, Chessman, Coleman, Curtis, Dean, Dusold, Emerson, Ezekiel, Hartwell, Harrington, Heldt, Kennedy, Kerley, Mallory, Mead, McCauley, O'Keefe, Stafford, Sutton, Tate, and Mr. Speaker—23.

*Nays*—Mr. Sanders—1.

Absent—Mr. Brown—1.

Title agreed to.

Mr. Alger, from Committee on Enrollment, reported that he had handed H. B. No. 56 to the Governor for his approval at 2:25 P. M. this day.

C. B. No. 48, an act to repeal an act concerning estrays and lost goods, was taken up, read third time, and passed by the following vote :

*Ayes*—Messrs. Aiken, Alger, Carmichael, Chessman, Coleman, Curtis, Dean, Dusold, Emerson, Ezekiel, Hartwell, Harrington, Heldt, Kennedy, Kerley, Mallory, Mead, McCauley, Stafford, Sutton, Tate, and Mr. Speaker—22.

*Nays*—Messrs. O'Keefe and Sanders—2.

Absent—Mr. Brown—1.

Title agreed to.

Communication from the Governor, through his private secretary, Chas. H. St. Clair :

TERRITORY OF MONTANA, }  
EXECUTIVE DEPARTMENT,  
VIRGINIA CITY, May 3, 1873. }

*To the House of Representatives :*

I have the honor to inform the House of Representatives that I have this day approved H. B. No. 50, entitled An Act to establish and regulate the fees of district attorneys and other officers in the Territory of Montana.

Also, H. B. No. 29, entitled An Act to legalize the acts of county and district officers.

Also, H. B. No. 18, entitled An Act to repeal certain portions of section 23 of an act providing for the collection of the revenue, approved January 12, 1872.

Also, H. B. No. 61, entitled An Act to amend section 202 of an act entitled An Act to regulate proceedings in civil cases in the courts of justice of the Territory of Montana, approved January 12, 1872.

Respectfully,

B. F. POTTS, Governor.

Mr. Ezekiel, from Committee on Federal Relations, reported back H. J. M. No. 3, with amendments, recommending its passage as amended.

Amendments adopted and ordered engrossed.

C. B. No. 22 was taken up, and recommitted to Judiciary Committee.

C. B. No. 21, an act to amend an act entitled An Act revising, re-enacting and codifying the general and permanent laws of Montana Territory, regulating appeals from probate to district courts, was taken up, read third time, and passed by the following vote :

*Ayes*—Messrs. Aiken, Alger, Brown, Carmichael, Chessman, Coleman, Curtis, Dean, Dusold, Emerson, Ezekiel, Hartwell, Harrington, Heldt, Kennedy, Kerley, Mallory, Mead, McCauley, O'Keefe, Sanders, Stafford, Sutton, Tate, and Mr. Speaker—25.

*Nays*—None.

Title agreed to.

C. B. No. 34, an act for the relief of W. G. Barkley, was taken up, read first and second times, and referred to Finance Committee.

C. B. No. 41, an act relating to county bonds and warrants, was taken up, read first time, and rejected.

C. B. No. 51, an act relating to the trial of criminals for certain offenses, read first and second times, and referred to Judiciary Committee.

C. B. No. 53, an act to amend section 137 of an act relating to administrators and executors, read first and second times, and referred to Judiciary Committee.

C. B. No. 56, an act in relation to the payment of fees, read first and second times, and referred to Judiciary Committee.

C. B. No. 57, an act providing for the payment of certain moneys by the treasurer of Lewis and Clark county to the treasurer of the Helena fire department, read first and second times, and referred to Committee on Ways and Means.

On motion of Mr. Ezekiel, House took a recess until 8 o'clock P. M.

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8 o'clock P. M.—House resumed.—Mr. Speaker in the chair.

Quorum present.

Absent—Messrs. Carmichael, Coleman, Hartwell, Harrington and McCauley.

Communication from the Council through their chief clerk, A. M. S. Carpenter, announcing that H. B. No. 60 had passed the Council.

C. B. No. 64, an act relating to administrators and executors, read first and second times, and referred to Judiciary Committee.

H. B. No. 64, introduced by Mr. O'Keefe, an act making an appropriation to secure a creditable representation of the industries, climate, mineral and agricultural wealth of the Territory of Montana at the international exposition to be held at Vienna, in Austria, the present year, read first and second times.

A call of the House was made. Absent—Messrs. Carmichael, Coleman, Harrington and Hartwell.

Sergeant-at-Arms ordered to bring in the absentees.

On motion of Mr. Ezekiel, further proceedings under the call was dispensed with, and bill referred to Committee on Indian Affairs.

Mr. Heldt, from Committee on Engrossment, reported H. J. M. No. 3 correctly engrossed.

On motion of Mr. Sanders, the select committee having in charge C. B. No. 63 were granted leave to retire.

C. B. No. 65, an act to amend section 112 of chapter 21, page 456, of the printed statutes of an act entitled An Act revising, re-enacting and codifying the general and permanent laws of Montana Territory, approved January 12th, 1872, was taken up, read first and second times, rules suspended, read third time by its title, and passed by the following vote:

*Ayes*—Messrs. Aiken, Alger, Brown, Carmichael, Chessman, Coleman, Curtis, Dean, Dusold, Emerson, Ezekiel, Hartwell, Harrington, Heldt, Kennedy, Kerley, Mallory, Mead, McCauley, O'Keefe, Sanders, Stafford, Sutton, Tate and Mr. Speaker—25.

*Nays*—None.

Title agreed to.

C. B. No. 68, Introduced by Judiciary Committee, An Act to amend an act entitled An Act revising, re-enacting and codifying the permanent and general laws of Montana Territory, approved January 12th, 1872, was taken up, read first and second times and referred to Judiciary Committee.

C. B. No. 60, introduced by Mr. Lawrence, an act to punish prisoners for breaking, escaping, or attempting to break or escape, from the penitentiary or other prisons, or assaulting the keeper thereof, read first and second times and referred to Judiciary Committee.



C. B. No. 58, an act requiring territorial and county officers to record their official bonds, was taken up, read first and second times, amended, rules suspended, amendments considered engrossed, read third time by its title, and passed by the following vote :

*Ayes*—Messrs. Aiken, Alger, Brown, Carmichael, Chessman, Coleman, Curtis, Dean, Dusold, Emerson, Ezekiel, Harrington, Heldt, Kennedy, Kerley, Mallory, Mead, McCauley, O'Keefe, Sanders, Stafford, Sutton, Tate, and Mr. Speaker—24.

*Nays*—None.

Absent (by leave)—Mr. Hartwell—1.

Title agreed to.

H. J. M. No. 3, introduced by Judiciary Committee, asking Congress for an appropriation to repair the "Mullen road," was taken up, rules suspended, read third time, and passed by the following vote :

*Ayes*—Messrs. Aiken, Alger, Brown, Chessman, Coleman, Curtis, Dean, Dusold, Emerson, Ezekiel, Harrington, Heldt, Kerley, Mallory, Mead, McCauley, O'Keefe, Sanders, Sutton, and Mr. Speaker—20.

*Nays*—Messrs. Carmichael, Stafford, Kennedy, and Tate—4.

Absent (by leave)—Mr. Hartwell—1.

Title agreed to.

By leave, Mr. Emerson, from Committee on Ways and Means, reported back C. B. No. 57, recommending its passage.

C. B. No. 59, an act to amend sections 7, 12, and 14 of an act entitled An Act revising, re-enacting and codifying the general and permanent laws of Montana Territory, approved

January 12th, 1872, was read first and second times, and referred to Judiciary Committee.

C. B. No. 57, an act providing for the payment of certain moneys by the treasurer of Lewis and Clark county to the treasurer of the Helena fire department, was taken up, rules suspended, read third time and passed by the following vote:

*Ayes*—Messrs. Aiken, Alger, Brown, Chessman, Dusold, Emerson, Ezekiel, Hartwell, Heldt, Kerley, Mead, McCauley, O'Keefe, Sanders, and Mr. Speaker—15.

*Nays*—Messrs. Carmichael, Coleman, Curtis, Dean, Harrington, Kennedy, Mallory, Stafford, Sutton, and Tate—10.

Title agreed to.

Mr. Heldt, from Committee on Engrossment, reported H. B. No. 53 correctly engrossed.

H. B. No. 53, an act entitled An Act [to] drive and identify stock and cattle, was taken up, read third time and passed by the following vote:

*Ayes*—Messrs. Aiken, Brown, Carmichael, Coleman, Curtis, Emerson, Hartwell, Kennedy, Kerley, Mallory, Mead, McCauley, Sutton, and Tate—14.

*Nays*—Messrs. Alger, Chessman, Dean, Dusold, Ezekiel, Harrington, Heldt, O'Keefe, Sanders, Stafford, and Mr. Speaker—11.

Title agreed to.

Mr. Kennedy, by leave, gave notice that he would, at 11 o'clock A. M. Monday, move a reconsideration of the vote by which C. B. No. 41 was indefinitely postponed.

On motion of Mr. Brown, House adjourned until 10 o'clock  
A. M. Koday.

J. H. ROGERS,  
*Speaker House of Representatives.*

W. W. CHAPMAN, *Chief Clerk.*

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## TWENTY-SECOND DAY.

MAY 5, 1873.

House met pursuant to adjournment—Mr. Speaker in the  
chair.

Roll called—quorum present.

Absent — Messrs. Harrington and Kerley, and Mr. Alger  
by leave.

Journal of Saturday read and approved.

Communication from the Council, through the Chief Clerk  
Carpenter, announcing that H. J. M. No. 2 was indefinitely  
postponed by the Council.

That the vote by which H. B. No. 32 passed the Council  
was reconsidered, and upon the question "Shall the bill pass,  
the objections of the Governor to the contrary notwithstanding?"  
was lost.

That he had returned two House Bills numbered 63, of like  
title but varying in substance, and desiring to know upon  
which bill the House desired consideration.

That the Council had concurred in House amendments to  
C. Bs. Nos. 20, 23 and 48.

That Council had refused to concur in House amendments to C. B. No. 46, and had appointed Messrs. Dance and Yager a committee to confer on the bill with a like committee from the House, which the Council respectfully requests the House to appoint.

That Messrs. Lawrence and Newcomer have been appointed on the part of the Council in accordance with the request of House to confer on House amendments to C. B. No. 9.

Mr. Sanders offered the following resolution, which was adopted:

*Resolved*, That the Council be informed that it is H. B. No. 63, engrossed copy, upon which the House requests the action of the Council.

Mr. Coleman, from Committee on Judiciary, reported back C. B. No. 64, with amendments, recommending its passage as amended.

Mr. Dean, from Committee on Roads and Highways, reported back C. B. No. 19, recommending its passage.

Also, the petition from the citizens of Beaverhead county, recommending the same be deferred to next session.

Mr. McCauley, from select committee, reported back C. B. No. 63, with amendments, recommending the bill as amended do pass.

H. C. R. No. 8, introduced by Mr. Sanders, requesting the Governor to return enrolled Council Bill No. 66, to the Council for further consideration of both Houses, was read first and second times, rules suspended, considered engrossed, read third time and passed by the following vote:

*Ayes*—Messrs. Aikin, Brown, Carmichael, Chessman, Coleman, Curtis, Dean, Dusold, Emerson, Ezekiel, Hartwell, Harrington, Heldt, Kennedy, Mallory, Mead, McCauley, O'Keefe, Sanders, Stafford, Sutton, Tate and Mr. Speaker—23.

Absent—Mr. Kerley—1.

Absent (by leave)—Mr. Alger—1.

Title agreed to.

On motion of Mr. Sanders, a committee of conference on C. B. No. 46, was appointed by the House to act with a like committee from the Council.

The Speaker appointed Messrs. Sanders and Carmichael as said committee.

C. B. No. 64, introduced by Mr. Newcomer, a bill for an act in relation to administrators and executors, was taken up and amended, rules suspended, amendments considered engrossed, read third time and passed by the following vote :

*Ayes*—Messrs. Aiken, Carmichael, Chessman, Coleman, Curtis, Dean, Dusold, Emerson, Ezekiel, Hartwell, Harrington, Heldt, Kennedy, Mallory, Mead, McCauley, O'Keefe, Stafford, Sutton, Tate, and Mr. Speaker—22.

*Nays*—Mr. Brown—1.

Absent (by leave)—Kerley and Alger.

Title agreed to.

On motion of Mr. Ezekiel the House resolved itself into Committee of the Whole on C. B. No. 63, Mr. Ezekiel in the chair.

House resumed.—Mr. Speaker in the chair.

C. B. No. 19, an act to define and provide for the working of roads and highways, was taken up, read third time, and, on motion of Mr. Coleman to indefinitely postpone, was lost by the following vote :

*Ayes*—Messrs. Chessman, Coleman, Dusold, Heldt, Mallory, and Sanders.—6.

*Nays*—Messrs. Aiken, Alger, Brown, Carmichael, Curtis, Dean, Emerson, Ezekiel, Hartwell, Harrington, Kennedy, Kerley, Mead, McCauley, O'Keefe, Stafford, Sutton, Tate, and Mr. Speaker—19.

On motion of Mr. Sanders, was made the special order for 2 o'clock P. M. to-morrow, by the following vote :

*Ayes*—Messrs. Brown, Carmichael, Chessman, Coleman, Dusold, Ezekiel, Hartwell, Harrington, Heldt, Mallory, McCauley, O'Keefe, and Sanders—13.

*Nays*—Messrs. Aiken, Alger, Curtis, Dean, Emerson, Kennedy, Kerley, Mead, Stafford, Sutton, Tate, and Mr. Speaker—12.

Mr. Ezekiel, chairman of the Committee of the Whole, reported back C. B. No. 63 with amendments, recommending its passage, as amended.

Amendments adopted.

Bill ordered printed.

Mr. Alger, from Committee on Enrollment, reported C. Bs. Nos. 23, 48, 61, also H. Bs. Nos. 42 and 60 correctly enrolled.

On motion of Mr. Tate, House took recess until 2 o'clock P. M.

2 o'clock P. M. — House resumed — Mr. Speaker in the chair.

Roll called—quorum present.

Absent—Messrs. Dean, Heldt, Stafford, also, Mr. Alger, by leave—4.

On motion of Mr. Carmichael, the vote by which C. B. No 19 was made the special order for to-morrow at 2 o'clock P. M. was reconsidered.

Mr. Kerley called to the chair.

A call of the House was made.

Absent—Messrs. Alger, Heldt and Stafford.

Sergeant-at-Arms ordered to bring in the absentees.

On motion of Mr. Sanders, Messrs. Alger and Heldt were excused.

Sergeant-at-Arms reported Mr. Stafford in his seat.

On motion of Mr. Ezekiel, the further proceedings under call were dispensed with.

The ayes and nays being called on the final passage of the bill, resulted as follows :

*Ayes*—Messrs. Aiken, Brown, Carmichael, Chessman, Curtis, Dean, Dusold, Emerson, Ezekiel, Harrington, Kennedy, Kerley, Mallory, Mead, McCauley, O'Keefe, Sutton, Tate, and Mr. Speaker—19.



*Nays*—Messrs. Coleman, Hartwell, Sanders, and Stafford—4.

Absent—Messrs. Alger and Heldt, by leave—2.

Bill passed.

Title agreed to.

Mr. Sutton, from Committee on Finance, reported back C. B. No. 34, recommending its passage.

Mr. Alger, from Committee on Enrollment, reported C. J. Resolutions No. 2 and 4, also, C. B. No. 32 correctly enrolled.

C. B. No. 34, An Act for the relief of W. G. Barkley, was taken up, and motion to amend, by Mr. Sanders.

Lost.

Mr. Speaker in the chair.

Previous question lost by the following vote :

*Ayes*—Messrs. Aiken, Alger, Brown, Curtis, Emerson, Harrington, Kennedy, Kerley, Sutton, Tate, and Mr. Speaker—11.

*Nays*—Messrs. Carmichael, Chessman, Coleman, Dean, Dusold, Hartwell, Heldt, Mallory, Mead, McCauley, O'Keefe, Sanders, and Stafford—13.

Absent ( by leave )—Mr. Ezekiel—1.

And on the question, " Shall the bill pass ? " the ayes and nays being called, resulted as follows :

*Ayes* — Messrs. Aiken, Alger, Brown, Chessman, Coleman, Curtis, Emerson, Harrington, Kennedy, Kerley, Mead, McCauley, O'Keefe, Sutton, and M. Speaker—15.

*Nays*—Messrs. Carmichael, Dean, Dusold, Hartwell, Heldt, Mallory, Sanders, Stafford, and Tate—9.

Absent, by leave—Mr. Ezekiel.

Bill passed.

Title agreed to.

On motion of Mr. McCauley, the vote by which C. B. No. 63 was ordered printed was reconsidered, and Committee on Printing requested to report the bill to the House.

Communication from the Governor, through his private secretary, C. H. St. Clair :

TERRITORY OF MONTANA, }  
EXECUTIVE DEPARTMENT, }  
VIRGINIA CITY, May 5, 1873. }

*To the House of Representatives :*

I return to the House of Representatives H. B. No. 19, entitled An Act to regulate the times and places of holding the terms of the supreme court of Montana, without my approval.

Section 9 of the organic act provides that the supreme court shall consist of a chief justice, and two associate justices, any two of whom shall constitute a quorum, and who shall hold a term at the seat of government of said territory annually.

Congress having clearly fixed the place the supreme court shall be held, I cannot believe that the Legislative Assembly, or the judges of said court, have any power to change the place of holding said court; but should the judges of said court hold that such power is conferred upon them by the organic act, then I can see no reason for the passage of this bill, for it would only be an affirmance of the authority already granted.

I think it is a well settled principle of law that where congress has assumed to legislate upon a given question relating to the territories, such question is not a legitimate subject of legislation by a territorial legislature

Respectfully,

B. F. POTTS, *Governor.*

The Speaker announced that he had signed C. J. Rs. Nos. 2 and 4, and C. B. No. 32.

On motion of Mr. Sanders, the vote by which H. B. No. 19 passed the House was reconsidered, and on the question, " Shall the bill pass, the objections of the Governor to the contrary notwithstanding?" the ayes and nays being called, resulted as follows :

*Ayes*—Messrs. Chessman, Dusold, Hartwell, Harrington, Heldt, McCauley, Sanders, and Tate—8.

*Nays*—Messrs. Aiken, Brown, Carmichael, Coleman, Curtis, Dean, Emerson, Kennedy, Kerley, Mallory, Mead, O'Keefe, Stafford, Sutton, and Mr. Speaker—15.

Absent—by leave, Messrs. Alger and Ezekiel—2.

Not being a two-thirds vote in the affirmative, the Speaker declared the bill lost.

Mr. Alger, from Committee on Enrollment, reported that he had handed H. Bills Nos. 42 and 60 to the Governor for his approval at 2:45 o'clock P. M. to-day.

Mr. Kerley, from Committee on Printing, reported back C. B. No. 63, unprinted.

C. B. No. 63 was taken up.

A call of the House was made.

Absent—Mr. Ezekiel.

Sergeant-at-Arms ordered to bring in the absentee.

Sergeant-at-Arms reported Mr. Ezekiel in his seat.

A motion of Mr. Tate, to amend, was lost by the following vote :

*Ayes*—Messrs. Curtis, Dean, Emerson, Harrington, Kennedy, Kerley, Mallory, Sutton, Tate and Mr. Speaker—10.

*Nays*—Messrs. Aiken, Alger, Brown, Carmichael, Chessman, Coleman, Dusold, Ezekiel, Hartwell, Heldt, Mead, McCauley, O'Keefe, Sanders and Stafford—15.

Ordered engrossed.

Mr. Heldt, from Engrossing Committee, reported C. B. No. 63 correctly engrossed.

On motion of Mr. Harrington, C. B. No. 63 was recommitted to Engrossing Committee for further examination.

On motion of Mr. Coleman, House took recess until 3:30 o'clock P. M.

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3:30 O'CLOCK P. M.—House resumed. Mr. Speaker in the chair.

Roll called—all present.

Mr. Heldt, from Engrossing Committee, reported C. B. No. 63 correctly engrossed.

C. B. No. 63, an act to authorize certain counties of Montana to subscribe to the capital stock of railroad companies, was taken up, rules suspended, bill read third time, and passed by the following vote:

*Ayes*—Messrs. Alger, Aiken, Brown, Carmichael, Chessman, Coleman, Dean, Dusold, Ezekiel, Hartwell, Harrington, Heldt, Kennedy, Kerley, Mead, McCauley, O'Keefe, Sanders, and Stafford—19.

*Nays*—Messrs. Curtis, Emerson, Mallory, Sutton, Tate and Mr. Speaker—6.

Title agreed to.

By leave, without previous notice, Mr. Ezekiel introduced H. C. R. No. 9, for the payment of S. R. Shankland for services rendered as journal and assistant clerk of this House. Read first and second times, rules suspended, considered engrossed, read third time, and passed by the following vote :

*Ayes*—Messrs. Aiken, Alger, Brown, Coleman, Curtis, Emerson, Ezekiel, Hartwell, Harrington, Heldt, Kennedy, Kerley, Mead, McCauley, O'Keefe, Stafford, Sutton, Tate and Mr. Speaker—19.

*Nays*—Messrs. Carmichael, Chessman, Dean, Dusold, Mallory, and Sanders—6.

Title agreed to.

Communication from the Council through Chief Clerk Carpenter, announcing that H. C. R. No. 8, H. J. M. No. 3, C. B. No. 70, making certain appropriations ; and C. B. No. 69, to amend section 117 of chapter 7 of criminal practice act, had passed the Council ; and that H. B. No. 43, was lost in the Council.

C. B. No. 69, introduced by Judiciary Committee, a bill for an act to amend section 117 of chapter 7, of an act entitled " Criminal Practice Act," approved January 12, 1872, was read first and second times, rules suspended, bill read third time, and passed by the following vote :

*Ayes*—Messrs. Alger, Carmichael, Coleman, Heldt, Kennedy, Kerley, Mallory, Mead, O'Keefe, Stafford, Sutton, Tate, and Mr. Speaker—13.

*Nays*—Messrs. Aiken, Brown, Chessman, Curtis, Dean, Dusold, Emerson, Ezekiel, Hartwell, Harrington, McCauley, and Sanders—12.

Title agreed to.

C. B. No. 70, introduced by Mr. Owen, an act making certain appropriations to the historical society, and to the territorial law library, was read first and second times, rules suspended, read third time, and passed by the following vote.

*Ayes*—Messrs. Aiken, Alger, Brown, Chessman, Coleman, Curtis, Dean, Dusold, Emerson, Ezekiel, Hartwell, Harrington, Heldt, Kennedy, Kerley, Mead, McCauley, O'Keefe, Sanders, Stafford, and Sutton—22.

*Nays*—Messrs. Carmichael, Mallory, and Mr. Speaker—3.

Title agreed to.

On motion of Mr. Carmichael, House adjourned until 10 o'clock A. M. to-morrow.

J. H. ROGERS,

*Speaker of the House of Representatives.*

W. W. CHAPMAN, *Chief Clerk.*

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## TWENTY-THIRD DAY.

MAY 6, 1873.

House met pursuant to adjournment. Mr. Speaker in the chair.

Roll called—quorum present.

Absent—Messrs. Brown, Heldt, and Kerley—3.

Journal of previous day read and approved.

Communication from the Council, through the chief clerk, Carpenter, announcing that H. B. No. 63 and C. B. No. 71, relating to the qualifications of jurors, had passed the Council.

Mr. Coleman, from Judiciary Committee, reported back H. B. No. 13, recommending the House refuse to concur in council amendments.

Report was adopted.

Mr. Stafford, from Committee on Indian Affairs, reported back H. B. No. 64, without recommendation.

Mr. Alger, from Joint Committee on Enrollment, reported H. J. M. No. 3, and H. C. R. No. 8, correctly enrolled.

Mr. Coleman, from Judiciary Committee, reported back C. C. R. No. 5, recommending its passage.

The Speaker announced that he had signed H. J. M. No. 3, and H. C. R. No. 8.

Mr. Sanders, from Conference Committee on C. B. No. 46, reported that the Council had agreed to recommend that the House recede from its amendments to section 2, and that the Council concur in House amendments to section 18.

Report adopted, and, on motion of Mr. Ezekiel, House receded from amendments to section 2.

Mr. Sanders, from Committee on Judiciary, reported back C. B. No. 22, with amendments, recommending its passage as amended. Amendments adopted, rules suspended, amendments considered engrossed, bill read third time, and passed by the following vote :

*Ayes*—Messrs. Aiken, Brown, Carmichael, Chessman, Coleman, Curtis, Dean, Dusold, Ezekiel Hartwell, Harrington, Heldt, Kennedy, Kerley, Mallory, Mead, McCauley, O'Keefe, Sanders, Stafford, Sutton, Tate, and Mr. Speaker—23.



*Nays*—None.

Absent (by leave)—Messrs. Emerson and Alger—2.

Title agreed to.

H. B. No. 13, with Council amendments, was taken up, amendments read, and House refused to concur, and Council requested to recede therefrom.

Mr. Emerson offered the following resolution, which was adopted :

*Resolved*, That the Chief Clerk be instructed to ask the Council to return C. B. No. 34 to the House for further consideration.

C. C. R. No. 5, for the relief of R. W. Hill, was taken up, read third time, and passed by the following vote :

*Ayes*—Messrs. Alger, Brown, Coleman, Curtis, Emerson, Ezekiel, Harrington, Kennedy, Kerley, Mead, McCauley, O'Keefe, Stafford, Sutton, Tate, and Mr. Speaker—16.

*Nays*—Messrs. Aiken, Carmichael, Chessman, Dean, Dunsold, Heldt, Mallory, and Sanders—8.

Absent—Mr. Hartwell—1.

Title agreed to.

C. B. No. 71, an act to amend section 8, of chapter 37, of an act entitled An Act revising, re-enacting, and codifying the general and permanent laws of Montana Territory, approved January 12, 1872, was taken up, read first and second times, and on motion of Mr. Sanders, was amended by striking out and transposing the enacting clause; and section one further amended, on motion of Mr. Coleman, by striking out all of section 2, and inserting as section 2, "all acts and parts of acts in conflict with this act are hereby repealed."

On motion of Mr. Ezekiel, the rules were suspended, amendments considered engrossed, bill read third time, and passed by the following vote :

*Ayes* — Messrs. Aiken, Alger, Brown, Carmichael, Chessman, Coleman, Dean, Emerson, Ezekiel, Hartwell, Harrington, Kennedy, Kerley, Mead, McCauley, O'Keefe, Sanders, Stafford, Sutton, Tate, and Mr. Speaker—21.

*Nays*—Messrs. Dusold, Heldt and Mallory—3.

Absent—Mr. Curtis—1.

Title agreed to.

H. B. No. 64, an act making an appropriation to secure a creditable representation at the international exposition to be held at Vienna, was taken up, read third time, and lost by the following vote :

*Ayes*—Messrs. Hartwell, Harrington, Heldt, Mead, O'Keefe, and Sanders—6.

*Nays* — Messrs. Aiken, Alger, Brown, Carmichael, Chessman, Coleman, Curtis, Dean, Dusold, Ezekiel, Kennedy Kerley, Mallory, McCauley, Stafford, Sutton, Tate, and Mr. Speaker—18.

On motion of Mr. Mallory, House took recess until 2 o'clock P. M.

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2 o'clock P. M.—House resumed—Mr. Speaker in the chair.

Roll called—quorum present.

Absent — Messrs. Alger, Brown, Carmichael, Dean, and Hartwell.

On motion of Mr. Ezekiel, rules were suspended, and the vote by which C. B. No. 41 was indefinitely postponed was reconsidered, bill put upon its final passage, and lost by the following vote :

*Ayes* — Messrs. Carmichael, Ezekiel, Kennedy, Kerley, Mallory, Stafford, and Mr. Speaker — 7.

*Nays* — Messrs. Aiken, Brown, Chessman, Coleman, Curtis, Dean, Dusold, Emerson, Harrington, Heldt, Mead, McCauley, O'Keefe, Sanders, Sutton, and Tate — 16.

Absent — Messrs. Alger and Hartwell — 2.

Mr. Alger, from Committee on Enrollment, reported C. Bs. Nos. 20, 57, 58, 64, and 65, also H. B. No. 63, correctly enrolled.

Mr. Speaker announced that he had signed C. Bs. Nos. 20, 57, 58, 64, and 65, also H. B. No. 63.

On motion of Mr. Coleman, the vote by which H. B. No. 64 was lost was reconsidered, and made the special order for Thursday at 2 o'clock P. M.

On motion of Mr. Stafford, House took recess until 8 o'clock P. M.

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8 o'clock P. M.— House resumed — Mr. Speaker in the chair.

Roll called — quorum present.

Absent — Mr. Coleman.

Communication from the Council announcing :

That C. J. R. No. 5, to pay for certain newspapers, H. B. No. 25 with amendments, had passed the Council ;

That the Council had receded from its amendments to H. B. No. 13 ;

That the Council refuses to concur in House amendments to C. B. No. 22, and respectfully requests the House to recede therefrom ;

And that C. B. No. 34 is herewith returned to the House, as requested ;

That C. J. R. No. 2 has been returned to the Council by the Governor, without his approval, and that it has passed the Council notwithstanding.

Mr. Alger, from Committee on Enrollment, reported C. B. No. 63, C. C. R. No. 5, correctly enrolled.

Also, H. B. No. 63, H. C. R. No. 8, and H. J. M. No. 3, handed to the Governor, for his approval, at 3:15 P. M. this day.

On motion of Mr. Sanders, House refused to recede from its amendments to C. B. No. 22 ; and the House appointed a committee of conference, and requested the Council to appoint a like committee.

The Speaker appointed Messrs. Sanders and Stafford on the part of the House.

Communication from the Governor, through his private secretary, C. H. St. Clair :

TERRITORY OF MONTANA,  
EXECUTIVE DEPARTMENT,  
VIRGINIA CITY, May 6, 1873. }

*To the House of Representatives :*

I have the honor to inform the House of Representatives that I have this day approved H. B. No. 56, entitled An Act to fix the time of holding the regular sessions of future legislative assemblies of Montana Territory.

Also, H. B. No. 63, entitled An Act to provide for the payment of certain expenses, and making an appropriation therefor.

Respectfully,

B. F. POTTS, *Governor*.

H. B. No. 25, with Council amendments, was taken up and referred to Committee on Mines and Minerals, with instructions to report on or before 2:30 o'clock to-morrow.

The Speaker announced that he had signed C. C. R. No. 5, and C. B. No. 63.

On motion of Mr. Sanders, the vote by which C. B. No. 66 passed the House was reconsidered, and indefinitely postponed.

C. J. R. No. 2, with the Governor's objections, was taken up, objections read, and, on motion of Mr. Ezekiel, the vote by which C. J. R. No. 2 passed the House was reconsidered, and on the question, "Shall the bill pass, the objections of the Governor to the contrary notwithstanding?" the ayes and nays being called, resulted as follows:

*Ayes*—Messrs. Aiken, Alger, Brown, Chessman, Coieman, Curtis, Emerson, Ezekiel, Hartwell, Harrington, Heldt, Kennedy, Kerley, Mead, McCauley, O'Keefe, Stafford, Sutton, Tate, and Mr. Speaker — 20.

*Nays* — Messrs. Carmichael, Dean, Dusold, Mallory, and Sanders — 5.

More than two-thirds of all the votes having been cast in the affirmative, the Speaker declared the bill passed, the objections of the Governor to the contrary notwithstanding.

On motion of Mr. Emerson, the vote by which C. B. No. 34 passed the House was reconsidered, and, on motion of Mr. Ezekiel, the vote by which it was [read] third time, was reconsidered, and, on motion of Mr. Ezekiel, was amended by striking out all after word "the" in enacting clause, and

inserting in lieu thereof the words "Legislative Assembly of the Territory of Montana." Also, amended by placing the title of the bill "For the relief of W. G. Barkley" before and above the enacting clause. The rules were suspended, bill read third time and passed by the following vote:

*Ayes* — Messrs. Aikin, Alger, Brown, Coleman, Curtis, Emerson, Ezekiel, Harrington, Kennedy, Kerley, Mead, McCauley, O'Keefe, Sutton, and Mr. Speaker — 15.

*Nays* — Messrs. Carmichael, Chessman, Dean, Dusold, Hartwell, Heldt, Mallory, Sanders, Stafford, and Tate — 10.

Title agreed to.

H. B. No. 65, introduced by Mr. Alger, to provide for the printing of certain laws, read first and second times and referred to Committee on Ways and Means.

Communication from the Council, through the Chief Clerk, Carpenter, announcing that H. B. No. 53 had passed the Council, with amendments, and that H. C. R. No. 9 had passed the Council.

H. B. No. 53, with Council amendments, was taken up, and referred to select committee composed of the members from Gallatin, Beaverhead, and Meagher counties.

On motion of Mr. Ezekiel, House adjourned until 10 o'clock A. M. to-morrow.

J. H. ROGERS,

*Speaker of House of Representatives.*

W. W. CHAPMAN, *Chief Clerk.*

## TWENTY-FOURTH DAY.

MAY 7, 1873.

House met pursuant to adjournment—Mr. Speaker in Chair.

Roll called—quorum present.

Absent—Messrs. Brown, Heldt, and Carmichael.

Journal of previous day read and approved.

By leave, without previous notice, Mr. Sanders introduced H. B. No. 66, for an act to provide for the publication of the amendments of this session to the existing laws. Read first and second times, and referred to Committee on Ways and Means.

Communication from the Governor, through his private secretary, Chas. H. St. Clair:

TERRITORY OF MONTANA, }  
EXECUTIVE DEPARTMENT,  
VIRGINIA CITY, May 6, 1873. }

*To the House of Representatives:*

I have the honor to return to the House of Representatives H. B. No. 42, entitled An Act to provide for the organization of railroad corporations in the Territory of Montana, without my approval.

I object to the sections of the bill that provide for the exercise of the right of eminent domain, and content myself by substituting the following authorities, and touching the legality of said sections:

“The right of eminent domain is a part of the sovereign power.”

Upon the admission of a state into the Union, the right of eminent domain, temporarily held by the United States, passes to the state.



Brightly's Digest, Vol. 1, page 150: "Eminent domain has been adopted by us from the writers on national and civil law upon the continent of Europe, and is perhaps better understood than almost any other form of expression for the same idea, and is defined to be that '*dominium eminens*,' or superior right, which, of necessity, resides in the sovereign power in all governments to apply private property to public use in those great public emergencies which can reasonably be met in no other way."

And it would seem that notwithstanding the right of sovereignty may reside in the United States as the paramount sovereign, so far as the territories are concerned in reference to internal communication by highways and railways, and notwithstanding the ownership of the soil of a portion of the lands by the United States, in many of the states, as well as the territories; still, when any of the territories are admitted into the Union as independent states, the general rights of eminent domain are vested exclusively in the state sovereignty. Redfield on Railroads, Vol. 1, page 230; Pollard *vs.* Hagan, 3d Howard, page 212, N. S.; Goodtitle *vs.* Kibbee, 9th Howard, page 471; Dor *vs.* Beebe, 13th Howard, page 25; United States *vs.* Railroad Bridge Company, 6th McLean, page 517.

In the new territories, however, where the government of the United States possess the complete sovereignty, it possesses also, as incident thereto, the right of eminent domain, but this right passes thence to the newly formed state whenever it is admitted into the Union. Cooley on Con. Limitations, pages 525, 526.

An examination of the acts of congress, granting charters to railroad corporations, where the lines of the same run into or through the territories of the United States, will show that said acts clearly define how private property shall be taken for the use of said corporations.

If the right of eminent domain exists in the territorial governments, why has congress inserted such provisions in said acts?

Respectfully,

B. F. POTTS, *Governor.*

On motion of Mr. Ezekiel, the vote by which H. B. No. 42 passed the House was reconsidered, and made the special order for 2:15 o'clock p. m. to-day.

Mr. Alger, from Joint Committee on Enrolment, reported H. Bs. Nos. 13, and H. C. R. No. 9, and C. Bs. Nos. 19, 69, and 71, correctly enrolled.

Mr. Sutton, from Finance Committee, reported back C. C. R. No. 5, with amendments, recommending its passage as amended.

The Speaker announced that he had signed H. B. No. 13 and H. C. R. No. 9.

Mr. Ezekiel, from Committee of Conference on C. B. No. 9, reported that the Committee recommended the House recede from its amendment in striking out section 7, and numbering section 8 section 7, and section 9 section 8; and that section 7 be amended by striking out all of section 7, and inserting in lieu thereof the words "all acts and parts of acts conflicting with this act be and are hereby repealed," and that the Council concur in House amendments to section 8.

Report adopted.

C. J. R. No. 5 was taken up.

Amendments adopted.

Mr. Sanders moved to amend by adding to section 1, "and for the 'Missouliau,' \$25; for the 'Avant Courier,' \$25; and for the 'Tribune Publishing Co.' \$10."

Mr. Mead moved a call of the House.

Absent—Mr. Alger, by leave.

On motion of Mr. Sanders, a further call of the House was dispensed with.

Amendments lost by the following vote :

*Ayes*—Messrs. O'Keefe and Sanders—2.

*Nays*—Messrs. Aiken, Brown, Carmichael, Chessman, Coleman, Curtis, Dean, Dusold, Emerson, Ezekiel, Hartwell, Harrington, Heldt, Kennedy, Kerley, Mallory, Mead, McCauley, Stafford, Sutton, Tate, and Mr. Speaker—22.

Absent (by leave)—Mr. Alger—1.

Resolution read third time, and lost by the following vote :

*Ayes*—Messrs. Mead and O'Keefe—2.

*Nays*—Messrs. Aiken, Brown, Carmichael, Chessman, Coleman, Dean, Dusold, Emerson, Ezekiel, Hartwell, Harrington, Heldt, Kennedy, Mallory, McCauley, Sanders, Stafford, Sutton, Tate, and Mr. Speaker—20.

Absent—Mr. Kerley, Mr. Alger by leave, and Mr. Curtis excused—3.

On motion of Mr. Sanders, House took recess until 2 o'clock, P. M.

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2 o'clock P. M.—House resumed.—Mr. Speaker in the chair.

Roll called—quorum present.

Absent—Messrs. Coleman, Dean, and Hartwell.

Mr. Alger, from Committee on Enrollment, reported H. B. No. 13, and H. C. R. No. 9, handed to the Governor for his approval at 11:17 A. M. this day.

H. B. No. 42 being the special order, was taken up.

Mr. Sanders moved a call of the House.

Absent—Mr. Coleman.

Sergeant-at-Arms ordered to bring in absentee.

Sergeant-at-Arms reported Mr. Coleman in his seat.

On motion of Mr. Carmichael, further consideration under the call was dispensed with.

On motion of Mr. Ezekiel, the rules were suspended, limiting the length of speeches.

Communication from the Council through their Chief Clerk, Carpenter, announcing that the Council had concurred in House amendments to C. B. No. 9.

That Messrs. Bullock and Newcomer were appointed a conference committee on C. B. No. 22, as requested by the House.

That C. B. No. 73, relating to county warrants, and C. B. No. 74, to amend general laws, had passed the Council.

Also that C. B. No. 75 had passed the Council.

The objections of the Governor were read and on the question, "Shall the bill pass, the objections of the Governor to the contrary, notwithstanding?" the ayes and nays being called, resulted as follows:

*Ayes*—Messrs. Aiken, Alger, Brown, Carmichael, Chessman, Coleman, Dean, Dusold, Emerson, Ezekiel, Harrington, Heldt, Kennedy, Mallory, Mead, McCauley, O'Keefe, Sanders, Stafford, Sutton, and Tate—22.

*Nays*—Messrs. Curtis, Kerley, and Mr. Speaker—3.

And at 3:10 p. m. the Speaker declared the bill passed, the Governor's objections to the contrary notwithstanding.

The Speaker announced that he had signed C. Bs. Nos. 19, 69 and 71.

Communication from the Council through the chief clerk, Carpenter, announcing that C. B. No. 63 had passed the Council, the objections of the Governor to the contrary notwithstanding.

C. B. No. 63 was taken up, and the objections of the Governor to its becoming a law read.

On motion of Mr. Ezekiel, the vote by which C. B. No. 63 passed the House, was reconsidered, and, on the question "Shall the bill pass, the objections of the Governor to the contrary notwithstanding?" the ayes and nays being called, resulted as follows:

*Ayes*—Messrs. Aiken, Alger, Brown, Carmichael, Chessman, Coleman, Dean, Dusold, Ezekiel, Hartwell, Harrington, Heldt, Kennedy, Kerley, Mead, Mallory, O'Keefe, Sanders, and Stafford—19.

*Nays*—Messrs. Curtis, Emerson, McCauley, Sutton, Tate, and Mr. Speaker—6.

Two-thirds having voted in the affirmative, the Speaker, at 3:55 o'clock p. m., declared the bill passed, the objections of the Governor to the contrary notwithstanding.

Mr. Emerson, from Committee on Ways and Means, reported back H. Bs. Nos. 65 and 66, recommending the passage of No. 65 and the rejection of No. 66.

On motion of Mr. Alger, House took a recess until 8 o'clock p. m.

8 o'clock P. M.—House resumed.—Mr. Speaker in the chair.

Roll called—Quorum present.

Absent—Mr. Chessman.

Excused—Messrs. Carmichael, Coleman, Hartwell and Stafford.

Mr. Alger, from Committee on Enrollment, reported C. B. No. 70 correctly enrolled.

C. B. No. 73, an act relating to county warrants, was taken up, read first and second times, and referred to Finance Committee.

C. B. No. 74, an act to amend section 113 of chapter 21 of an act entitled An Act revising, re-enacting and codifying the general and permanent laws of Montana Territory, passed January 12, 1872, read first and second times and indefinitely postponed.

C. B. No. 75, an act to furnish members of the Legislative Assembly of the Territory of Montana with copies of laws and journals, read first and second times, rules suspended, read third time and passed by the following vote :

*Ayes*—Messrs. Aiken, Alger, Brown, Curtis, Dean, Dusold, Emerson, Ezekiel, Hartwell, Harrington, Heldt, Kennedy, Kerley, Mead, McCauley, O'Keefe, Sanders, Stafford, Sutton, Tate, and Mr. Speaker—21.

*Nays*—Messrs. Carmichael and Mallory—2.

Excused—Messrs. Chessman and Coleman.

Mr. Aiken, from Committee on Mines and Minerals, reported back H. B. No. 25, recommending the House do not concur in Council amendments.

On motion of Mr. Mead, report adopted, and Council requested to recede therefrom.

Mr. Speaker announced that he had signed C. B. No. 70.

Communication from the Council through the chief clerk, Carpenter, announcing that C. B. No. 67, locating the seat of government of Montana Territory at Deer Lodge, had passed the Council.

That the Council is now ready to adjourn *sine die*, at the pleasure of the House.

That H. B. 42 had passed the Council, notwithstanding the objections of the Governor, by the constitutional vote, and that the Council desired the return of H. B. No. 53 to the Council for further consideration.

C. B. No. 67, an act to amend an act entitled An Act to locate the seat of government, read first time and rejected.

Mr. Alger, from Committee on Enrollment, reported C. B. No. 34 correctly enrolled.

Mr. Sanders offered the following resolution, which was adopted:

*Resolved*, That the chief clerk be instructed to report the titles and numbers of bills which have been introduced in the House, that have not become laws or rejected.

H. B. No. 65 was taken up and ordered engrossed.

Communication from the Council through the chief clerk, Carpenter, announcing that the Council had appointed Messrs. Lawrence and Stuart as a committee of conference upon H. B. No. 25, as requested by the House.



C. B. No. 66 was taken up and laid on the table.

H. C. R. No. 10, introduced by Mr. Ezekiel, adjourning the Legislative Assembly *sine die*, on Thursday, at 5 o'clock P. M. Read first and second times, rules suspended, read third time passed by the following vote :

*Ayes*—Messrs. Aiken, Alger, Brown, Carmichael, Curtis, Dean, Ezekiel, Heldt, Kerley, Mallory, Mead, Harrington, McCauley, O'Keefe, Stafford, Sutton, Tate and Mr. Speaker—18.

*Nays*—Messrs. Dusold, Hartwell, Kennedy, and Sanders—4.

Absent — Messrs. Chessman, Coleman, and Emerson—3.

Title agreed to.

On motion of Mr. Tate, House adjourned until 10 o'clock A. M. to-morrow.

J. H. ROGERS,

*Speaker of the House of Representatives.*

W. W. CHAPMAN, *Chief Clerk.*

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## TWENTY-FIFTH DAY.

MAY 8, 1873.

House met pursuant to adjournment—Mr. Speaker in the chair.

Roll called—quorum present.

Absent—Messrs. Alger, Carmichael, and Dean, and Mr. Coleman excused.

Journal of previous day read and approved.

Report of Chief Clerk received, giving titles and numbers of House Bills not passed or rejected by the House.

Mr. Heldt, from Committee on Engrossment, reported H. B. No. 65 correctly engrossed.

H. B. No. 65 was taken up, and, by leave, amended by Mr. Kerley by adding to section 4 the following words: "*Provided*, That the entire sum shall not exceed the sum of four hundred dollars."

Mr. Mead, from Committee on Judiciary, reported back C. B. No. 59, recommending its passage. Read third time, and passed by the following vote:

*Ayes*—Messrs. Brown, Carmichael, Chessman, Curtis, Dusold, Emerson, Ezekiel, Harrington, Kennedy, Kerley, Mallory, Mead, McCauley, O'Keefe, Sanders, Stafford, Sutton—17.

*Nays*—Mr. Heldt—1.

Absent—Messrs. Aiken, Alger, Dean, Hartwell, Tate, and Mr. Speaker—6.

Excused—Mr. Coleman—1.

Title agreed to.

Rules suspended, H. B. No. 65 put on its final passage, read third time, and passed by the following vote:

*Ayes*—Messrs. Brown, Carmichael, Chessman, Curtis, Dean, Dusold, Emerson, Ezekiel, Harrington, Kennedy, Kerley, Mallory, Mead, McCauley, O'Keefe, Stafford, Sutton, Tate, and Mr. Speaker—19.

*Nays*—Messrs. Heldt and Sanders—2.

Absent—Messrs, Aiken, Alger, and Hartwell—3.

Excused—Mr. Coleman—1.

Title agreed to.

Mr. Sanders, from Committee on Judiciary, reported back C. B. No. 56, recommending its passage.

Report of Joint Committee on Governor's message received and adopted, and committee discharged.

C. B. No. 56 was read third time (a bill for an act in relation to the payment of fees), and passed by the following vote :

*Ayes*—Messrs. Aiken, Brown, Carmichael, Chessman, Curtis, Dean, Dusold, Ezekiel, Hartwell, Harrington, Kennedy, Kerley, Mallory, Mead, McCauley, O'Keefe, Sanders, Stafford, Sutton, Tate, and Mr. Speaker 21.

*Nays*—None.

Absent—Messrs. Alger, Emerson, and Heldt—3.

Excused—Mr. Coleman—1.

Title agreed to.

Mr. Sanders, from Judiciary Committee, reported back C. B. No. 60, recommending its passage.

Mr. Mead, from Judiciary Committee, reported back C. B. No. 53, recommending its passage.

C. B. No. 53 was taken up, read third time, and passed by the following vote :

*Ayes*—Messrs. Aiken, Brown, Carmichael, Chessman, Curtis, Dean, Dusold, Ezekiel, Hartwell, Harrington, Kerley, Mallory, Mead, McCauley, Sanders, Stafford, Sutton, Tate, and Mr. Speaker—19.

*Nays*—None.

Absent—Messrs. Alger, Emerson, Heldt, Kennedy, O'Keefe—5.

Excused—Mr. Coleman—1.

Title agreed to.

Mr. Sanders, from Committee on Judiciary, reported back C. B. No. 51, recommending its passage.

Communication from the Council, through the chief clerk, Carpenter, announcing that C. C. R. No. 7, Crelative to "*sine die*" adjournment, had passed the Council.

C. B. No. 60 was taken up (a bill for an act to punish persons for breaking, escaping, or attempting to break or escape from the penitentiary or other prisons, or assaulting the keepers thereof), read third time, and passed by the following vote:

*Ayes* — Messrs. Aiken, Brown, Chessman, Dean, Dusold, Ezekiel, Kerley, Mallory, Mead, McCauley, Sanders, Stafford, and Sutton—13.

*Nays* — Messrs. Carmichael, Hartwell, Harrington, Heldt, and Mr. Speaker—5.

Absent—Messrs. Alger, Curtis, Emerson, Kennedy, O'Keefe, and Tate—6.

Excused—Mr. Coleman—1.

Title agreed to.

Mr. Sanders, from Committee on Judiciary, reported back C. B. No. 29, recommending its passage.

C. B. No. 51, an act relating to the trials of criminals for certain offences was taken up, read third time, and passed by the following vote:

*Ayes*—Messrs. Brown, Chessman, Dean, Dusold, Emerson, Ezekiel, Hartwell, Heldt, Mallory, Mead, McCauley, and Sanders—12.

*Nays*—Messrs. Aiken, Carmichael, Harrington, O'Keefe, Stafford, Sutton, Tate, and Mr. Speaker—8.

Absent—Messrs. Alger, Curtis, Kennedy, and Kerley—4.

Excused—Mr. Coleman—1.

Title agreed to.

C. B. No. 29, a bill for an act to amend section 459 of the criminal practice act, approved January 12, 1872, was taken up, read third time, and passed by the following vote :

*Ayes*—Messrs. Aiken, Brown, Carmichael, Chessman, Dean, Dusold, Ezekiel, Kerley, Mead, Sanders, Stafford, and Sutton—12.

*Nays*—Messrs. Emerson, Hartwell, Harrington, Heldt, Kennedy, Mallory, McCauley, O'Keefe, Tate, and Mr. Speaker—10.

Absent—Messrs. Alger and Curtis—2.

Excused—Mr. Coleman—1.

Title agreed to.

Mr. Harrington offered the following resolution, which was adopted :

*Resolved*, That the thanks of this House are hereby tendered to the Hon. John H. Rogers, Speaker of the House, for the able and impartial manner with which he has presided over the deliberations of this body.

C. C. R. No. 7, relative to *sine die* adjournment, was taken up, read first and second times, amended on motion of Mr. Rogers, by inserting " 5 " instead of " 4 " in fourth line ; rules

suspended, amendments considered engrossed, read third time, and passed by the following vote :

*Ayes*—Messrs. Aiken, Brown, Carmichael, Chessman, Dean, Dusold, Emerson, Ezekiel, Hartwell, Harrington, Heldt, Kerley, Mallory, Mead, McCauley, O'Keefe, Sanders, Stafford, Sutton, Tate, and Mr. Speaker—21.

*Nays*—Mr. Kennedy—1.

Absent—Messrs. Alger and Curtis—2.

Excused—Mr. Coleman—1.

Title agreed to.

Mr. Sanders, from Committee on Judiciary, reported back H. B. No. 59, recommending it be indefinitely postponed.

Report adopted and bill indefinitely postponed.

Mr. Sanders reported back H. B. No. 55 without recommendation.

Communication from the Council through their Chief Clerk, Carpenter, announcing that Council substitute for H. B. No. 25, had passed the Council.

Mr. Rogers offered an amendment to section 1 of H. B. No. 55.

On motion of Mr. Sanders, recommitted to a select committee of one (Mr. Mead), with instructions.

Mr. Alger, from Committee on Enrollment, reported C. Bs. Nos. 9 and 46 correctly enrolled.

The Speaker announced that he had signed C. Bs. Nos. 9 and 46.

On motion of Mr. O'Keefe, House took recess until 2 o'clock P. M.

2 o'CLOCK P. M.—House resumed.—Mr. Speaker in the chair.

Roll called—No quorum.

Call of the House was made.

Absent—Messrs. Aiken, Alger, Brown, Carmichael, Curtis, Dean, Dusold, Harrington, Kennedy, O'Keefe, and Stafford—11.

Sergeant-at-Arms ordered to bring in the absentees.

Sergeant-at-Arms reported Messrs. Dean, Dusold, Stafford, Curtis, Aiken, and O'Keefe, in their seats.

On motion of Mr. Sanders, the further consideration under the call was dispensed with.

Mr. Ezekiel, from Committee on Enrollment, reported C. B. No. 75 correctly enrolled.

The Committee of Conference, on the disagreement of the two houses to House amendments to C. B. No. 22, reported, recommending that the Council reconsider its refusal to concur in said amendments, and that it concur therein, and that no further action on the part of the House is necessary.

H. B. No. 64 being the special order, was taken up, and lost by the following vote :

*Ayes*—Messrs. Aiken, Alger, Brown, Dusold, Hartwell, Heldt, Mead, and O'Keefe—8.

*Nays*—Messrs. Carmichael, Chessman, Curtis, Dean, Emerson, Ezekiel, Kerley, Mallory, McCauley, Sanders, Stafford, Sutton, and Mr. Speaker—13.

Absent—Messrs. Harrington, Kennedy, and Tate—3.



Excused—Mr. Coleman—1.

The Speaker announced that he had signed C. B. No. 73.

Sergeant-at-Arms reported Messrs. Harrington and Tate in their seats.

On motion of Mr. Sanders, H. Bills Nos. 10, 28, 34, and 23, and C. Bills Nos. 39, 68, and 43, were made special order for the 1st of January next.

On motion of Mr. Sanders, the vote by which H. B. No. 64 was lost was reconsidered by the following vote:

*Ayes*—Messrs. Aiken, Alger, Brown, Chessman, Curtis, Dusold, Ezekiel, Hartwell, Kennedy, Kerley, Mead, O'Keefe, Sanders, and Mr. Speaker—14.

*Nays*—Messrs. Carmichael, Dean, Emerson, Harrington, Heldt, Mallory, McCauley, Stafford, Sutton, and Tate—10.

Excused—Mr. Coleman—1.

H. B. No. 64 was then voted upon, and lost by the following vote:

*Ayes*—Messrs. Aiken, Dusold, Hartwell, Heldt, Mead, O'Keefe, and Sanders—7.

*Nays*—Messrs. Alger, Brown, Carmichael, Chessman, Curtis, Dean, Emerson, Ezekiel, Harrington, Kennedy, Kerley, Mallory, McCauley, Stafford, Sutton, Tate, and Mr. Speaker—17.

Excused—Mr. Coleman—1.

On motion of Mr. Sanders, House took a recess until 4 o'clock P. M.

4 O'CLOCK P. M.—House resumed—Mr. Speaker in the chair.

Roll called—quorum present.

Absent—Messrs. Emerson, Sanders, and Heldt.

C. Substitute for H. B. No. 25 was taken up and adopted.

Excused—Mr. Coleman—1.

Bill ordered enrolled.

Communication from the Council, through Chief Clerk A. M. S. Carpenter, announcing that H. B. No. 65 had passed the Council.

Mr. Alger, from Committee on Enrollment, reported H. B. No. 65, also C. Bs. Nos. 56, 59, 60, 51, 29, and 53 correctly enrolled.

The Speaker announced that he had signed H. B. No. 65.

Mr. Sanders offered the following resolution, which was unanimously adopted :

*Resolved*, That this House desires to record its appreciation of the fidelity, efficiency, and zeal manifested by the Hon. James E. Callaway, Secretary of the Territory, in the discharge of his official duties during our present session, and of the unfailing courtesy he has manifested in all his intercourse with the members of the House of Representatives.

The Speaker appointed Messrs. Kerley and Sanders the Select Committee on Printing, provided for in H. B. No. 65.

The Speaker announced that he had signed C. Bs. Nos. 56, 59, 60, 51, 29, and 53.

Mr. Alger, from Joint Committee on Enrollment, reported that he had handed H. B. No. 65 to the Governor for his approval, at 3:30 P. M. this day.

On motion of Mr. Brown, a joint committee of two from the House, to act with a like committee of members from the Council, to wait upon the Governor and inform him that this House was about to adjourn *sine die*, and wishes to be informed if he had any communications to make. The Speaker appointed Messrs. Brown and Aiken said committee.

Communication from the Council, through their Chief Clerk, A. M. S. Carpenter, announcing that C. J. R. No. 6, for the relief of R. W. Hill, had passed the Council.

C. J. R. No. 6, to pay R. W. Hill, was taken up, read first and second times, rules suspended, resolution read third time, and passed by the following vote :

*Ayes*—Messrs. Aiken, Alger, Brown, Curtis, Emerson, Ezekiel, Harrington, Kennedy, Kerley, Mead, McCauley, O'Keefe, Stafford, Sutton, Tate, and Mr. Speaker—16.

*Nays*—Messrs. Carmichael, Chessman, Dean, Dusold, Hartwell, Heldt, Mallory, and Sanders—8.

Excused—Mr. Coleman—1.

Title agreed to.

Mr. Alger, from Joint Committee on Enrollment, reported H. B. No. 25 correctly enrolled.

The Speaker announced that he had signed H. B. No. 25.

Communication from the Council, through Chief Clerk Carpenter, announcing that the Council had appointed Messrs. Fisher and Yager on the committee contemplated by H. B. No. 65; also, that Messrs. Bullock and Newcomer had been

appointed a committee on the part of the Council to act with the House committee, to wait on the Governor; and that H. C. R. No. 10, amended, has passed the Council.

House concurred in amendments of Council to H. C. R. No. 10 by the following vote:

*Ayes*—Messrs. Aiken, Alger, Brown, Carmichael, Chessman, Curtis, Dean, Dusold, Emerson, Ezekiel, Hartwell, Harrington, Kennedy, Kerley, Mallory, Mead, McCauley, O'Keefe, Sanders, Stafford, Sutton, Tate, and Mr. Speaker—23.

*Nays*—Mr. Heldt—1.

Excused—Mr. Coleman—1.

Communication from the Governor, through\* his private secretary, C. H. St. Clair.

TERRITORY OF MONTANA,  
EXECUTIVE DEPARTMENT,  
VIRGINIA CITY, May 8, 1873. }

*To the House of Representatives:*

I have the honor to inform the House of Representatives that I have this day approved H. B. No. 65, entitled an act to provide for the publication of certain laws.

Also, H. B. No. 25, entitled An Act to provide for the location and recording of mining claims on veins and lodes.

Respectfully,

B. F. POTTS, *Governor*.

Mr. Sanders offered the following resolution, which was adopted:

*Resolved*, That the thanks of the House are hereby tendered to the Chief Clerk, and other attachees, for the assiduity with which they have devoted themselves to the discharge of their several duties.

Mr. Aiken, from select committee to wait on the Governor, reported that the Governor had no further communications to make to the House.

The hour 5:30 P. M. having arrived, the Speaker's hammer fell, and he declared the House adjourned *sine die*.

We hereby certify that the foregoing pages, from page 156 to 281 inclusive, contain a true and complete journal of the proceedings of the House of Representatives of the extraordinary session of the Legislative Assembly of the Territory of Montana.

J. H. ROGERS,

*Speaker House of Representatives.*

W. W. CHAPMAN, *Chief Clerk.*

SECRETARY'S OFFICE,  
TERRITORY OF MONTANA,  
VIRGINIA CITY, June 30, 1873. }

I, James E. Callaway, Secretary of the Territory of Montana, do hereby certify that the foregoing journal of the House of the extraordinary session of the Legislative Assembly of the said Territory, convened by proclamation of the Governor of said Territory, is a full and correct copy of the original journal now in my office.

*In witness whereof*, I have hereunto set my hand and affixed the seal of said territory the day and year above written.

JAMES E. CALLAWAY, *Secretary*.

















